EXHIBIT A

Russell A. Robinson (163937)
Law Office of Russell A. Robinson
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Counsel for Plaintiff
ÉQUAAN D. SMITH

ENDORSED
FILED
ALAMEDA COUNTY
APR 24 2017
CLERK OF THE SUPERIOR COURT
Anita Dhir

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA – UNLIMITED CIVIL JURISDICTION

ÉQUAAN D. SMITH, Plaintiff, v. BARRETT, DAFFIN, FRAPPIER, TREDER & WEISS, LLP; WELLS FARGO BANK, NA, successor to WACHOVIA MORTGAGE FSB, formerly known as WORLD SAVINGS BANK, FSB; and, DOES 1-40, Defendants.	No. RG17857691 **VERIFIED COMPLAINT FOR DAMAGES, DECLARATORY RELIEF, AND FOR INJUNCTIVE RELIEF** **[JURY TRIAL DEMANDED]**

Plaintiff ÉQUAAN D. SMITH hereby alleges ands claims as follows:

1. The claims alleged below arose in and around the City of Oakland, in the State of California. The subject real property is located in Oakland. Therefore, venue is proper in the County of Alameda.

2. This case involves a piece of real property located at 6646 Saroni Drive, in Oakland (the Property). The Property has been owned by Plaintiff for over ten years. Plaintiff purchased the Property in 2004, obtaining title through a deed recorded on about June 7, 2004.

PARTIES

3. Plaintiff ÉQUAAN D. SMITH is an adult, African-American woman residing in the County of Alameda.

4. Plaintiff is informed and believes that Defendant BARRETT, DAFFIN, FRAPPIER,

TREDER & WEISS, LLP (Barrett), claims to be Trustee in connection with a Notice of Trustee Sale pertaining to the Property. Barrett ostensibly claims that in 2016 it received assignment of the deed of trust dated May 19, 2004. On information and belief, WELLS FARGO BANK, NA (Wells) claims to be successor in interest to WACHOVIA MORTGAGE FSB (Wachovia), which itself may have been formerly known as, or is successor in interest to, WORLD SAVINGS BANK, FSB (World).

5. On information and belief, Wells is or was at relevant times a bank, organized under laws as those laws pertain to the creation and maintenance of such financial institutions, incorporated in the State of California, registered with the California Secretary of State. On information and belief, Barrett is not registered with the California Secretary of State, and thus is not authorized to conduct business or to maintain actions in the California. Barrett's failure to be admitted violates California law. In order to form in California, an LLP must first register with the California Secretary of State. An LLP formed in another state must register with the California Secretary of State prior to conducting business in the state. Barrett has done neither.

BACKGROUND

6. On or about May 19, 2004, Plaintiff made, executed and delivered to World a Note for the sum of $629,000.00 (the "Note"). Pursuant to the Note, Plaintiff was obligated to make monthly payments for thirty (30) years, until 2034, when all outstanding amounts are due and payable. At about the same time, Plaintiff made, executed and delivered to World a Deed of Trust (the "Deed of Trust") granting World a security interest in the Property at 66646 Saroni Drive, in Oakland, which is more fully described in the Deed of Trust, and not to exceed a sum certain. The Deed of Trust was recorded on about June 7, 2004.

7. On information and belief, on about December 31, 2007, World Savings Bank, FSB's charter and bylaws were amended to change its name to Wachovia Mortgage, FSB.

8. On or about November 1, 2009, on information and belief, Wachovia Mortgage FSB converted to a national bank with the name Wells Fargo Bank Southwest, National Association; effective November 1, 2009, Wells Fargo Bank Southwest, National Association merged with Wells Fargo Bank, National Association. Title of the Property was not changed to reflect this

change in ownership; thus, Wells is not the owner of the note secured by Plaintiff's property; World remains the owner of the note.

9. Plaintiff eventually was unable to meet the obligations under the terms of the loan.

10. Monthly payments were missed as the amount due continued to increase under the adjustable feature (ARM) of the subject note. Plaintiff was forced into bankruptcy.

11. Plaintiff did not understand this essential doubling of her monthly payments under the note. This hidden penalty substantially prejudiced Plaintiff's ability to meet the escalating obligations due under the note.

12. Eventually, after rejecting Plaintiff's 2016 request for loan modification, Wells placed Plaintiff into default. Plaintiff is unclear as to the exact date she was placed into default, but does know that Wells ultimately rejected her modification request, falsely stating on September 21, 2016, that "We are sending you a letter to inform you that we will no longer be considering your application for mortgage assistance. . . . [because] we have not received all of the required documents; therefore, we can no longer move forward with your application." Plaintiff provided everything to Wells during the modification process. Some items were sent several times because Wells denied receiving the materials. In addition, the reason Wells gave for rejecting the modification request just days before September 21, 2016, was that Plaintiff would be "unable to afford" the modified monthly loan payment – but Wells never informed Plaintiff what that amount would be, how that amount was determined, etc., despite several requests to specify that monthly amount and the basis(es) of the amount's determination.

13. On information and belief, Wells contends that the estimated payoff owing under the Note as of March 2017 is $1,038,074.16. Wells also claimed that as of April 18, 2017, the reinstatement amount was $481,883.68. Upon receiving this reinstatement quote only upon demand by Plaintiff, Plaintiff requested Wells provide an accounting with detailed breakdown of the reinstatement amount so Plaintiff could tender that amount to Wells before April 27, 2017.

14. Plaintiff first learned from a third-party mailer (advertisement) that there was a trustee sale set of the Property for April 27, 2017. The notice dd not originally come from Defendants.

15. Wells and/or Barrett have not posted notice of the trustee sale on the Property.

16. Wells and/or Barrett have not executed several of the documents pertaining to the Trustee sale.

17. With regard to a trustee sale, Barrett recorded a notice of default. This was before any substitution or assignment from World to Barrett. On information and belief, the Property has not been sold at trustee sale as of the dare of this filing.

18. On information and belief, on about April 11, 2016, Defendant Barrett caused to be recorded a substitution of trustee from Wells to Barrett, but the substitution did not involve World or Wachovia.

19. On information and belief, on about April 19, 2016, Defendant Barrett caused to be recorded notice of default, without a substitution from World or Wachovia, to Wells, and without recording a notice of default by the bona fide trustee. On information and belief, on about June 2, 2016, and again June 7, 2016, Barrett recorded cancellations of the default notice.

20. After the pre-textual and bizarre contradictory rejection of Plaintiff's request for home loan modification, on information and belief Barrett caused a notice of default to be recorded on about December 8, 2016, and notice of trustee sale on March 27, 2017. Trustee sale was set for April 27, 2017.

21. Plaintiff is informed that Defendants claim title to the Property as described above despite (or pursuant to) defective foreclosure notice and trustee sale. If the sale is eventually permitted, Plaintiff and her family (living with her at the Property are two of her children, ages 14 and 9, as well as her husband; two additional college-aged children reside part-time with Plaintiff at the Property) will be irreparably harmed.

22. Plaintiff demanded Defendants cease their conduct and that Defendants not carry through with the sale, but Defendants refuse to cease all unlawful activity. Plaintiff, without adequate remedy at law, will be forever harmed if the Property is in fact sold.

23. Defendants' continued and wrongful conduct will cause great and irreparable harm to Plaintiff; *e.g.*, she and her family will be evicted from their residence of almost 15 years, uprooted, and lose her hopes and dreams invested in the subject Property; and, *inter alia*, she

will unable to sell the home/property at true value (estimated at 1.5 million dollars).

24. Plaintiff is ignorant of the identities of Defendants DOES 1 though 40, and therefore sue such defendants as fictitiously named persons/entities, whose true identities and roles in the events which are the subject matter hereof, are presently unknown. Plaintiff will amend this complaint to identify fictitiously named Defendants and to set forth facts relating to each when same become known to Plaintiff. Plaintiff is informed and believes and thereon alleges that each DOE Defendant is legally responsible for events alleged herein which caused injury and damage to Plaintiff.

25. In doing the acts or omissions alleged, the defendants and each of them were acting in the course and scope of their employment/agency with their co-defendants where applicable.

26. In doing the acts or omissions alleged, each of the defendants acted as the agent, servant, employee, and/or in concert with each of the other Defendants herein.

FIRST CAUSE OF ACTION

California Homeowner Bill of Rights (California Civil Code §§ 2920-2967)

(As to All Defendants)

27. Plaintiff incorporates by reference all of the preceding paragraphs as though set forth fully herein.

28. Plaintiff is informed that on January 1, 2013, the California Homeowner Bill of Rights (CHBR) became law in California. Among other things, lenders, trustees, and mortgage servicers are restricted from advancing the foreclosure process where the homeowner is working on securing a loan modification. When a homeowner completes an application for loan modification, the foreclosure process is essentially paused until the complete application has been fully reviewed. Wells failed to abide by this requirement.

29. Under the CHBR, there was to be a guaranteed single point of contact. Homeowners are guaranteed a single point of contact while they navigate the system and try to keep their homes – a person or team at the bank who knows the facts of their case, has their paperwork and can get them a decision about their application for a loan modification. Wells failed in this

regard as well, as Plaintiff was passed between multiple persons and departments at Wells, during the initial modification process and the re-entry modification process in April 2017.

30. Also required is the verification of documents: Lenders that record and file multiple unverified documents will be subject to a civil penalty of up to $7,500 per loan.

31. Under the CHBR, Plaintiff has the right of enforceability. That is, borrowers have authority to seek redress of "material" violations of the new foreclosure process protections, also making injunctive relief available prior to a foreclosure sale (and recovery of damages available following a sale).

32. Under Civil Code section 2923.55(a), a "mortgage servicer, mortgagee, trustee, beneficiary, or authorized agent may not record a notice of default pursuant to Section 2924 until all of the following: . . . A notice of default recorded pursuant to Section 2924 shall include a declaration that the mortgage servicer has contacted the borrower, has tried with due diligence to contact the borrower as required by this section, or that no contact was required because the individual did not meet the definition of "borrower" pursuant to subdivision (c) of Section 2920.5." No such contact was made or attempted between September 21, 2016, and March 27, 2017.

33. In addition, the few communications from Wells are timed to arrive late. For example, a letter dated April 5, 2017, was not post-marked until April 10, 2017, and received by Plaintiff at her home only on April 15, 2017. This is the norm; that is, typical of Wells. Very few, if any, of the materials sent by Wells are timed to arrive in a timely manner. Almost without exception, these important documents vital to Plaintiff's effort to save her home are post-marked four-five days after each is apparently created, and then each arrives an additional four-five days after being post-marked.

34. Plaintiff therefor was and is damaged in an amount according to proof, and seeks injunctive relief under the CHBR to prevent the loss of her home.

WHEREFORE, Plaintiff prays for relief as set forth below.

SECOND CAUSE OF ACTION

Civil Code Sections 2924-2924c

(As to All Defendants)

35. Plaintiff re-alleges and incorporates by reference all preceding paragraphs.

36. In California, foreclosure sales can be postponed for up to one year under California Civil Code section 2924g (c) (2).

37. Defendants and each of them, initially gave notice of the intent to foreclose and the trustee sale far more than one year before December 2016.

38. Plaintiff never waived her rights under section 2924g(c)(2). While a bank may claim waiver, the requisite reviews were never given or allowed by the bank. Any such waiver was unconscionable and/or procured while Plaintiff was under extreme and severe duress. Each and every ostensible waiver is invalid.

39. The notice of default is based on a non-existent series of transactions that render the notice and all subsequent efforts to sell this house through trustee sale void.

40. Plaintiff thus suffered damage, according to proof.

THIRD CAUSE OF ACTION

California Civil Code section 2924.9

(As to all defendants)

41. Plaintiff re-alleges and incorporates by reference all preceding paragraphs.

42. Within five days of the recording of a notice of default, the mortgage servicer that offers foreclosure prevention alternatives must send a written notice to the borrower informing the borrower: 1) that the borrower may be evaluated for a foreclosure prevention alternative or alternatives; 2) whether an application is required in order to be considered for a foreclosure prevention alternative; and 3) the method by which a borrower may obtain an application for a foreclosure prevention alternative. Civil Code §2924.9(a).

43. Defendants failed to send the written notice within five days.

44. Plaintiff thus suffered damage, according to proof.

FOURTH CAUSE OF ACTION

California Civil Code section 2924c – Reinstatement

(As to all defendants)

45. Plaintiff re-alleges and incorporates by reference all preceding paragraphs.

46. In spite of the defects in assignment and/or defects in title to the deed of trust, defective substitution, failures of notice, and related problems with the Wells/Barrett process of foreclosure, Plaintiff has indicated she is willing and able to reinstate the loan, having on deposit an amount in excess of the reinstatement amount of $481,883.68.

47. On March 16, 2017, Wells apparently created a letter indicating to Plaintiff that she was receiving $1,401.49 as a refund pursuant to a class action settlement. This was the "result of late or missed payment change notice. . . ." That letter was post-marked March 20, 2017, and only received by Plaintiff on March 27, 2017, more than ten days after it was created.

48. On information and belief, on November 5, 2015, the Department of Justice's U.S. Trustee Program entered into a Settlement Agreement with Wells relating to Wells' mortgage servicing practices in Chapter 13 consumer bankruptcy cases (recall Plaintiff was forced into bankruptcy protection by Wells in 2010). In the Settlement Agreement, Wells acknowledged it failed to file timely more than 100,000 payment change notices ("PCNs") and failed to perform timely more than 18,000 escrow analyses in cases involving nearly 68,000 accounts of homeowners in bankruptcy between December 1, 2011, and March 15, 2015. Plaintiff fell into that class of homeowners.

49. Thus, in connection with the request for the reinstatement amount as well as the failures by Wells to which it admitted on November 5, 2015, Plaintiff requested an accounting of the $481,883.68 which Wells contends is the reinstatement amount. Wells has refused and/or failed to provide that detailed accounting.

50. Plaintiff cannot simply turn over $481,883.68 without a proper accounting of the fees, expenses, late fees, costs, and related charges, thus suffered damage, according to proof.

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FOURTH CAUSE OF ACTION

Breach of the Implied Covenant of Good Faith and Fair Dealing

(As to All Defendants)

51. Plaintiff re-alleges and incorporates by reference all preceding paragraphs.

52. As a result of the relationship between Plaintiff and Defendants, and each of them, the expressed and implied promises made in connection with that relationship, and the acts, conduct, and communications resulting in these implied promises, said Defendants promised to act in good faith toward and deal fairly with Plaintiffs requiring, *inter alia*, the following:

1. Each party in the relationship act with good faith toward the other concerning all matters arising from the relationship;
2. Each party in the relationship act with fairness toward the other concerning all matters arising from the relationship;
3. No party take any action to unfairly prevent any other party to the relationship from obtaining the benefits of the relationship;
4. Defendants, and each of them, would comply with their own promises, representations, and developed customs in dealing with Plaintiff;
5. Defendants, and each of them, would not misappropriate or subvert Plaintiff's expectations in the agreement; and,
6. Defendants, and each of them, would give Plaintiff's interests as much consideration as they gave their own.

53. Defendants' conduct was wrongful, in bad faith, and was a violation of said Defendants' legal duties. For example, Defendants took advantage of the fact that Plaintiff was trying to save her family home and misled Plaintiff about the value of said home during the 2016 modification process. A continuing and special relationship between Wells and Plaintiff existed, and continues to exist through the present, by virtue of ongoing negotiations, and agreement by Wells to consider modifying the loan(s) secured by the subject real property. In connection with Wells agreement to consider a loan modification, Wells requested multiple times the same

documents, fraudulently claimed not to have received certain documents, sought the same information on repeated occasions after the information had been produced, and engaged in conduct designed to cause, and causing, ongoing hardship and distress. Plaintiff further alleges Defendants breached the covenant of good faith and fair dealing when they acted as alleged.

54. The breach of the covenant of good faith and fair dealing by Defendants, and each of them, was a substantial factor in causing damage to Plaintiff. As a direct, legal, and proximate result of said breaches, Plaintiff lost substantial benefits in an amount to be proven.

WHEREFORE, Plaintiff prays for relief and judgment as set forth below.

FIFTH CAUSE OF ACTION

Unfair Business Practices

(As to All Defendants)

55. Plaintiff re-alleges and incorporates by reference all preceding paragraphs.

56. Prior to entering the agreements, or at the time the agreements were entered, Plaintiff paid what was required under the terms of the agreements; or, her complete performance was excused through duress, impracticability, frustration, conduct by Defendants, and/or other factors. A continuing and special relationship between Wells and Plaintiff existed, and continues to exist through the present, by virtue of the subsequent short sale agreements, ongoing negotiations, and agreement by Wells to consider modifying the loan(s) secured by the subject real property. In connection with Wells' agreement to consider a loan modification, Wells requested multiple times the same documents, fraudulently claimed not to have received certain documents, sought the same information on repeated occasions after the information had been produced, and engaged in conduct designed to cause, and causing, ongoing hardship and distress.

57. Plaintiff is informed and believes that Defendants, and each of them, did possess and did use Plaintiff's money. In failing as described above, said Defendants and each of them ths have engaged in unfair business practices withing the meaning of §17200, *et seq.*, thereby entitling Plaintiff to injunctive relief and restitution under §17203. Defendants took advantage of

Plaintiff and forced Plaintiffs into usurious and/or unfair – predatory – agreements.

58. Plaintiff is informed and believes that the tortious conduct described herein by Defendants, and each of them, was known at the time by these defendants to be willful and intentional.

WHEREFORE, Plaintiff prays for relief and judgment as set forth below.

SIXTH CAUSE OF ACTION

Negligence

(As to All Defendants)

59. Plaintiff re-alleges and incorporates by reference all preceding paragraphs.

60. At all relevant times, Defendants, and each of them, were required to keep their clients or credit customers reasonably informed about significant developments relating to their loans and to comply promptly with reasonable requests for information. They were required to employ means consistent with the truth, and were prohibited from seeking to mislead Plaintiff through artifice or false statement. Defendants further refused to communicate with Plaintiffs at times, despite repeated efforts to communicate concerning many important facets of the transactions between the parties. A continuing and special relationship between Wells and Plaintiff existed, and continues to exist through the present, by virtue of the subsequent short sale agreements, ongoing negotiations, and agreement by Wells to consider modifying the loan(s) secured by the subject real property. In connection with Wells agreement to consider a loan modification, Wells requested multiple times the same documents, fraudulently claimed not to have received certain documents, sought the same information on repeated occasions after the information had been produced, and engaged in conduct designed to cause, and causing, ongoing hardship and distress. Defendants took advantage of Plaintiff.

61. Defendants, and each of them, were required to act competently.

62. Defendants, and each of them, had a duty to act in a reasonable and competent fashion. In spite of duties owed to Plaintiff, these Defendants acted recklessly and/or intentionally and/or negligently and failed to use that degree of care which reasonable and

competent professionals would have used in like or similar circumstances, thus resulting in the injuries and damages alleged herein. In doing the acts alleged above and in other ways, Defendants, and each of them, violated standards and laws that govern these transactions.

63. As a direct, legal, and proximate result of the above-mentioned conduct, Plaintiff was damaged, in an amount to be proven at trial.

64. The conduct by Defendants, and each of them, as described above was oppressive, fraudulent, and malicious, as set forth above.

WHEREFORE, Plaintiff prays for relief and judgment as set forth below.

SEVENTH CAUSE OF ACTION

Intentional Infliction of Emotional Distress

(As to All Defendants)

65. Plaintiff re-alleges and incorporates by reference all preceding paragraphs.

66. Conduct by Defendants' employees/owners, described above, was outrageous.

67. Defendants intended to cause emotional distress or acted with reckless disregard of the probability that Plaintiff would suffer emotional distress, knowing Plaintiff was fighting for her family home and financial life.

68. Defendants' conduct, directed at Plaintiff, was of such substantial quantity and enduring quantity that no reasonable person in a civilized society should or would be expected to endure the severe emotional distress caused thereby.

69. Defendants' conduct described above was with reckless disregard that Plaintiff would suffer severe emotional distress, or was in fact intended to cause severe emotional distress. This conduct was outrageous, particularly in view of the circumstances and other factors.

70. Plaintiff, after she surrendered the bankruptcy protection, was at the mercy of Defendants, and these defendants knew or should have known his conduct likely would result in harm to Plaintiff in the form of emotional distress.

71. Plaintiff actually therefore suffered severe emotional distress, caused by the conduct described above.

72. Defendants' conduct was a substantial factor in causing Plaintiffs' severe emotional distress.

WHEREFORE, Plaintiffs pray for relief and judgment as set forth below.

EIGHTH CAUSE OF ACTION

QUIET TITLE

(As to All Defendants)

73. Plaintiff incorporates all preceding paragraphs herein.

74. Plaintiff seeks to quiet title against the claims of defendants as follows: the claims of defendants are without any right whatever and such defendants have no right , title, estate, lien, or interest whatever in the above-described property or any part thereof. Wells is without title in that its name has not been recorded as a successor to World or Wachovia, the deed of trust has not been properly assigned, and the Note remains payable only to World. Barrett cannot have any interest in the Property for many reasons, including but not limited to its status as a non-existent entity under California law and its rights, if any, derive from Wells' defective claims.

75. Plaintiff seeks to quiet title as of the date this complaint is filed with the court.

WHEREFORE, Plaintiff prays for relief as follows:

PRAYER

a. Compensatory damages according to proof;

b. General damages according to proof;

c. Punitive and exemplary damages;

d. For costs of suit and for reasonable attorneys' fees under, California Civil Code section 1717;

e. For pre-judgment and post-judgment interest;

f. For an order requiring Defendants, all persons acting on behalf of Defendants, and each of them, to do the following:

1. To disgorge all profits made in this transaction and in similar transactions;

2. To return monies taken from Plaintiff during these transactions;

3. To return the parties to the positions which existed in 2007, before the transactions took place;

4. To reverse all forfeiture activity, including without limitation the notice of default and pending trustee sale;

5. To cease further harassment of Plaintiff through calls, drive-by showings, letters, threats, and similar activity;

g. For a declaration from this Court that the series of contracts recounted above are unconscionable, unlawful, adhesive, and otherwise unenforceable;

h. For a temporary restraining order and preliminary injunction, prohibiting and/or enjoining the April 27, 2017, trustee sale of the Property at 6646 Saroni Drive, in Oakland California, and preventing harassment, and other described activity committed by the defendants;

I. For treble damages and attorneys' fees under the CHBR;

j. For a judgment that Plaintiff is the owner in fee simple of the property and that defendants have no interest in the property adverse to Plaintiff; and,

k. Such other and further relief as the Court deems just and proper.

Date: April 21, 2017

By: Russell A. Robinson
Law Office of Russell A. Robinson
Counsel for Plaintiff
ÉQUAAN D. SMITH

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury of this matter, as is her right.

Date: April 21, 2017

By: Russell A. Robinson
Law Office of Russell A. Robinson
Counsel for Plaintiff
ÉQUAAN D. SMITH

VERIFICATION

I, Équaan D. Smith, am Plaintiff herein.

I certify that I have reviewed the accompanying Verified Complaint for Damages and Injunctive Relief and aver that the facts stated therein are true and correct; as to facts stated as based on information and belief, I aver that these facts are believed to be true.

I, Équaan D. Smith, hereby declare and aver under penalty of perjury and under the laws of the State of California that the above is true and correct.

Date: 4-20, 2017

Équaan D. Smith

EXHIBIT B

SUM-100

SUMMONS
(CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

ENDORSED
FILED
ALAMEDA COUNTY
APR 2 4 2017
CLERK OF THE SUPERIOR COURT
Anita Dhir

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

BARRETT, DAFFIN, FRAPPIER, TREDER & WEISS, LLP; WELLS FARGO BANK, NA, successor to WACHOVIA MORTGAGE FSB, formerly known as WORLD SAVINGS BANK, FSB; and, DOES 1-40,

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

ÉQUAAN D. SMITH

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (*www.courtinfo.ca.gov/selfhelp*), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (*www.lawhelpcalifornia.org*), the California Courts Online Self-Help Center (*www.courtinfo.ca.gov/selfhelp*), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of $10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

*¡**AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.*

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov)*, en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.*

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org)*, en el Centro de Ayuda de las Cortes de California,* (www.sucorte.ca.gov) *o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de $10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.*

The name and address of the court is: *(El nombre y dirección de la corte es):* Superior Court of the State of California County of Alameda

CASE NUMBER: *(Número del Caso):* RG17857691

1225 Fallon Street
Oakland CA 94612

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Russell A. Robinson, 163937, Law Office of Russell A. Robinson, 345 Grove Street, 1st Floor
San Francisco CA 94102 415.861.4416/415.431.4526 rlaw345@gmail.com

DATE: *(Fecha)* APR 2 4 2017 Chad Finke Clerk, by *(Secretario)* Anita Dhir, Deputy *(Adjunto)*

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citatión use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

NOTICE TO THE PERSON SERVED: You are served
1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of *(specify)*:
3. ☐ on behalf of *(specify)*:

under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other *(specify)*:

4. ☐ by personal delivery on *(date)*:

Russell A. Robinson, 163937
Law Office of Russell A. Robinson
345 Grove Street, First Floor
San Francisco CA 94102
Telephone: 415.861.4416
Facsimile: 415.431.4526
e-mail: rlaw345@gmail.com

Counsel for Plaintiff
ÉQUAAN D. SMITH

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA – UNLIMITED CIVIL JURISDICTION

ÉQUAAN D. SMITH, Plaintiff, v. BARRETT, DAFFIN, FRAPPIER, TREDER & WEISS, LLP; WELLS FARGO BANK, NA, successor to WACHOVIA MORTGAGE FSB, formerly known as WORLD SAVINGS BANK, FSB; and, DOES 1-40, Defendants.	No. RG-17-857691 **AMENDED NOTICE OF MOTION AND MOTION RE: APPLICATION FOR PRELIMINARY INJUNCTION** Date: May 17, 2017 Time: 2:00 p.m. Dept: 19 Res: R-1848821

TO THE COURT IN THE ABOVE MATTER, AND ALL PARTIES AND COUNSEL:

PLEASE TAKE NOTICE that in Department 19 of the above Court at 1221 Oak Street in Oakland California, on May 17, 2017, or as soon thereafter as may be heard, Plaintiff shall and does hereby move and apply for a preliminary injunction enjoining, restraining, and otherwise prohibiting Defendants and all other persons/entities acting on behalf of, in concert with, at the behest of, or through, said defendants from selling through trustee sale or other means the real property located at 6646 Saroni Drive in Oakland, California, pending trial of this matter.

Said motion is and shall be based upon the attached memorandum, declaration of counsel, declaration of Plaintiff Équaan D. Smith, the request for judicial notice filed herewith, the April 24, 2017, verified complaint filed in this action, any reply, oral argument, and upon the Court's entire file herein. This motion and application are pursuant to California Code of Civil

Procedure (CCP), sections 525, 526, *et alia.*, and the California Civil Code, sections 2920, *et seq.*, the California Homeowner's Bill of Rights, and related statutes and laws

Defendants lack standing and legal status to proceed with the foreclosure and trustee sale of Plaintiff's home, and breached their obligations to conduct a good faith, thorough review of Plaintiff's 2016 request for a loan modification. In addition, despite requests and the ability to reinstate the subject note through tender, Defendants refuse to produce an accounting.

Plaintiff sought a temporary restraining order on April 26, 2017, which was granted as was the order to show cause, initially to be heard on May 17, 2017, in Department 511 at 9:00 a.m., but was moved by the Court to May 17, 2017, at 2:00 p.m., in Department 19.

All parties are hereby notified that the Court issues tentative rulings through its website (www.alameda.courts.ca.gov) with the appropriate options/prompts. Any party wishing to contest the Court's tentative ruling must follow the given instructions in a timely manner, or risk the tentative ruling becoming the final order of the Court.

Date: May 1, 2017

By: Russell A. Robinson
Law Office of Russell A. Robinson
Counsel for Plaintiff
ÉQUAAN D. SMITH

CERTIFICATE OF SERVICE

At the time of service, I was over the age of 18 years and not a party to this action. My business address was 345 Grove Street, First Floor, San Francisco California 94102. On May 1, 2017, I served the following document(s):

AMENDED NOTICE OF MOTION AND MOTION REGARDING APPLICATION FOR PRELIMINARY INJUNCTION

I certify that all parties hereto shall be, and are hereby, served on counsel of record, as indicated below, and as follows:

through electronic facsimile transmission to the number(s) designated below,
through the United States Postal Service, first class, with postage pre-paid thereon, and addressed as shown below,
through overnight delivery (Fedex), to Barrett Daffin in California, at the address shown below;
through personal delivery to Wells Fargo at the San Francisco address specified below, and
~~through e-mail, pursuant to request/agreement of counsel, as follows:~~

Wells Fargo Bank, NA
Home Mortgage
P.O. Box 10368
Des Moines IA 50306
FAX: 866.590.8910
[Defendant]

Corporate HQ, Office of the CEO
Wells Fargo Bank, NA
420 Montgomery Street
SAN FRANCISCO CA 94104
[Defendant]

Barrett Daffin Frappier Treder & Weiss, LLP
20955 Pathfinder Rd Ste 300
Diamond Bar, CA 91765
TEL: (626) 915-5714
FAX: (626) 915-0289
[Defendant]

Erica Jones, General Counsel
Barrett Daffin Frappier Treder & Weiss, LLP
4004 Belt Line Road
Addison TX 75001
FAX: (972) 661-7800
[Defendant Barrett Daffin Frappier Treder & Weiss, LLP]

I hereby declare under penalty of perjury and under the laws of the State of California that the above is true and correct.

Dated: May 1, 2017

R. Robinson

Russell A. Robinson, 163937
Law Office of Russell A. Robinson
345 Grove Street, First Floor
San Francisco CA 94102
Telephone: 415.861.4416
Facsimile: 415.431.4526
e-mail: rlaw345@gmail.com

Counsel for Plaintiff
ÉQUAAN D. SMITH

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA – UNLIMITED CIVIL JURISDICTION

ÉQUAAN D. SMITH, Plaintiff, v. BARRETT, DAFFIN, FRAPPIER, TREDER & WEISS, LLP; WELLS FARGO BANK, NA, successor to WACHOVIA MORTGAGE FSB, formerly known as WORLD SAVINGS BANK, FSB; and, DOES 1-40, Defendants.	No. RG-17-857691 **DECLARATION OF ÉQUAAN D. SMITH IN SUPPORT OF APPLICATION FOR PRELIMINARY INJUNCTION** Date: May 17, 2017 Time: 2:00 p.m. Dept: 19 Res: R-1848821

I, ÉQUAAN D. SMITH, hereby declare as follows:

1. I am an adult, woman residing in the County of Alameda. The below true and correct facts are of my own personal knowledge, except facts stated as based on information and belief; as to facts so stated, I believe these to be true.

2. This case involves a piece of real property located at 6646 Saroni Drive, in Oakland (the Property). I have owned the Property for over ten years. I purchased the Property in 2004, obtaining title through a deed recorded on about June 7, 2004.

3. Submitted as an attached to the request for judicial notice, and filed contemporaneously with this declaration, is the verified complaint for damages, filed with the Superior Court on April 24, 2017. The facts stated in that verified complaint are true and correct, and are incorporated in this declaration by reference.

4. Attached as exhibit 1 is a true and correct copy of the online snapshot of my three accounts at the Santa Clara County Federal Credit Union. I am presently employed by the Santa Clara County Office of the Public Defender. The total I have deposited in those three accounts at the Credit Union, and to which I have access and may immediately withdraw for payment toward reinstatement of my home mortgage, is over $147,800.

5. I have on deposit with my attorney, Russell A. Robinson, a total of $340,000, which amount remains in his attorney-client trust account as far as I know.

6. I have on deposit with AXA as of March 31, 2017, a total of $107,271.68, an amount I can and will access and withdraw immediately for payment toward reinstatement of my home mortgage. Attached as exhibit 2 is a true and correct copy of my AXA account statement for the period January 1, 2017, through March 31, 2017.

7. I have available as of this filing an amount equal to approximately $595.071.68, for immediate payment toward reinstatement of my home mortgage.

8. I am informed and believe that Wells Fargo Bank, my loan servicer, has stated that the amount needed to reinstate my home mortgage secured by my property at 6646 Saroni Drive in Oakland is $481,883.68. I have money enough to reinstate the mortgage at that amount but Wells Fargo Bank will not produce an accounting or detailed breakdown of calculations used to arrive at this figure. My own calculations indicate the actual amount needed to reinstate is about $432,000 as of this filing. Given Wells Fargo Bank's conduct throughout efforts at modification, described in the Verified Complaint., I am reluctant to part with an extra $50,000 at this juncture absent a legitimate accounting or detailed breakdown of calculations used to arrive at the higher figure.

9. I am informed and believe that Defendant Barrett Daffin Frappier Treder & Weiss, LLP, has listed my family home for trustee sale, which will now occur on May 24, 2017. Unless they are stopped and we can arrive at an agreed upon sum for reinstatement, my family will suffer irreparable harm should our home be sold. We have two children enrolled in nearby schools (ages 14 and 9), made substantial improvements to the Property (*e.g.*, a remodeled kitchen), and this home holds incredible emotional value for me and my family. We annually have

Thanksgiving Dinner here as well as an annual Memorial Day BBQ and yard party co-hosted with immediate neighbors attended by many friends and family.

10. I am thus asking the Court to prevent the May 24, 2017, sale of my family home in order to prevent irreparable harm to my family and so Wells Fargo and I may reach an agreement on the reasonable amount needed to reinstate the loan.

11. I am informed and believe that Wells Fargo previously was found to have committed in accounting errors in connection with my loan from World Savings. Attached as exhibit 3 is a true and correct copy of the March 16, 2017, letter from Wells noting its accounting errors, with the envelope showing the post-mark of March 20, 2017, provided by me to my attorney.

12. Attached as exhibit 4 is a true and correct copy of excerpted portions of the deed of trust recorded on June 7 2004. My signature is affixed to the recorded document in which I am designated as of the June 7, 2004, as borrower and trustor, World Savings Bank, FSB, was the lender and beneficiary, and Golden West Savings Association Service Co., was the trustee. Despite several requests, we have never been provided proof the present trustee Barrett Daffin Frappier Treder & Weiss, LLP, is in possession of the original promissory note secured by that deed of trust. The original note was not a bearer note. Barrett Daffin Frappier Treder & Weiss, LLP, does not have the right to enforce, and is not the holder in due course of debt and note.

13. Attached as exhibit 5 is a true and correct copy of the April 5, 2017, letter from the new Wells Fargo modification (preservation) specialist, with its post-marked envelope attached showing April 10, 2017. I am informed by persons at Wells Fargo that I have re-entered the modification process, and that my modification request is presently under review.

14. Attached as exhibit 6 is a true and correct copy ofthe notice of foreclosure (trustee) sale from a third party dated February 9, 2017. This was the first notice of any kind I received that a trustee of my family home was scheduled in April 2017.

15. In connection with my 2016 request to modify the subject loan, Wells Fargo initially advised me that may family would be unable to afford the modified monthly loan payment; despite repeated requests, Wells Fargo never – refused to – inform me of what that amount would be. In the 2016 modification process, Wells Fargo provided what it contended were

comparable properties which were in fact not comparable in terms of square feet (about 2,800), number of bedrooms (four), number of bathrooms (3.5), location, views, and other factors. When I tried to discuss this deficiency in Wells Fargo's analysis, I was then told that because I had failed to provide all the necessary and requested information, Wells Fargo was denying my request for modification. I had provided all the necessary and requested information. Wells Fargo never explained what the alleged missing information was, despite requests.

I, ÉQUAAN D. SMITH, hereby declare under penalty of perjury and under the laws of the State of California that the above is true and correct.

May 1, 2017

Plaintiff **ÉQUAAN D. SMITH**

CERTIFICATE OF SERVICE

At the time of service, I was over the age of 18 years and not a party to this action. My business address was 345 Grove Street, First Floor, San Francisco California 94102. On May 1, 2017, I served the following document(s):

DECLARATION OF ÉQUAAN D. SMITH IN SUPPORT OF APPLICATION FOR PRELIMINARY INJUNCTION

I certify that all parties hereto shall be, and are hereby, served on counsel of record, as indicated below, and as follows:

through electronic facsimile transmission to the number(s) designated below,
through the United States Postal Service, first class, with postage pre-paid thereon, and addressed as shown below,
through overnight delivery (Fedex), to Barrett Daffin in California, at the address shown below;
through personal delivery to Wells Fargo at the San Francisco address specified below, and
~~through e-mail, pursuant to request/agreement of counsel, as follows:~~

Wells Fargo Bank, NA
Home Mortgage
P.O. Box 10368
Des Moines IA 50306
FAX: 866.590.8910
[Defendant]

Corporate HQ, Office of the CEO
Wells Fargo Bank, NA
420 Montgomery Street
SAN FRANCISCO CA 94104
[Defendant]

Barrett Daffin Frappier Treder & Weiss, LLP
20955 Pathfinder Rd Ste 300
Diamond Bar, CA 91765
TEL: (626) 915-5714
FAX: (626) 915-0289
[Defendant]

Erica Jones, General Counsel
Barrett Daffin Frappier Treder & Weiss, LLP
4004 Belt Line Road
Addison TX 75001
FAX: (972) 661-7800
[Defendant Barrett Daffin Frappier Treder & Weiss, LLP]

I hereby declare under penalty of perjury and under the laws of the State of California that the above is true and correct.

Dated: May 1, 2017

R. Robinson

Exhibit 1

Home Accounts Bill Payments Transfers PFM eServices My Mortgage Apply Now

Last Login: 04/23/17 at 12:03 PM PDT Print Help

Spendable Balance

$109,459

What's my Spendable Balance?

4 Unread Messages

Apr 1 Passcode Changed!
Apr 1 Passcode Changed!
Apr 1 Passcode Changed!
Apr 1 Passcode Changed!

Home

Transfer

Money I Can Spend	Available	Balance
CHECKINGS *32-70	$109,459.03	$109,459.03
TOTAL	$109,459.03	$109,459.03

Money I'm Saving	Available	Balance
CASTILLO AZUL SHARES *32-00	$5,021.45	$5,046.45
EVERGREEN PALACE IMPOUND *32-01	$33,358.33	$33,358.33
TOTAL	$38,379.78	$38,404.78

EOS-1

Exhibit 2

AXA redefining / standards

Statement Period:
January 01, 2017 - March 31, 2017

P.O. BOX 1547, SECAUCUS, NEW JERSEY 07096-1547

1319950 01 AB 0.400 **AUTO T6 0 9202 94611-2343 3 -01-A1D-0000002-P20299

Contract Number:	[redacted]299
Contract Type:	Structured Capital Strategies 16 B (IRA)
Contract Date:	October 25, 2016
Contract Owner:	Mrs Equaan D Smith
Annuitant Name:	Mrs Equaan D Smith

01A1D-1319950-0696952

Mrs Equaan D Smith
6646 Saroni Dr
Oakland CA 94611-2343

An important message appears at the end of this statement.

Your Account at a Glance

Account Activity Summary	Quarter 1/1/2017-3/31/2017	Year-To-Date 1/1/2017-3/31/2017	Since Purchase 10/25/2016-3/31/2017
Beginning Account Value	**$105,331.12**	**$105,331.12**	**$0.00**
Contributions	**$0.00**	**$0.00**	**$104,115.60**
Net Change in Value	**$1,940.56**	**$1,940.56**	**$3,156.08**
Current Total Account Value	**$107,271.68**	**$107,271.68**	**$107,271.68**

Your Annuity Account Value Summary:

	End of Period 3/31/2017
Variable Investment Options Account Balance:	$0.00
Segment Type Holding Accounts Account Balance:	$0.00
Structured Investment Option† Account Balance:	$107,271.68
Total Annuity Account Value:	**$107,271.68**

† In certain documents, the Structured Investment Option is referred to as the Protected Investment Option.

Your Death Benefit

	Current Period Ending 3/31/2017
Current Death Benefit	**$107,271.68**

Your Cash Value

	Current Period Ending 3/31/2017
Cash Value	**$102,065.90**

For Assistance, Contact:
Your Financial Professional:

Raymond H Preston
AXA Advisors, LLC
2175 N. California Blvd.
Suite 405
Walnut Creek CA 94596
925-951-1147

AXA Equitable Life Insurance Company

Access to 24 Hour Account Information

- Website: **www.axa.com** and click on Online Account Access

To speak to one of our Customer Service Representatives, call **800-789-7771**
Monday - Thursday 8:30 - 7:00 ET
Friday 8:30 - 5:30 ET

FDS - 2

EXHIBIT B to Notice of Removal
Page 39

Please review this statement and retain it with your AXA Equitable papers. Financial information continued on Reverse Side.

Exhibit 3

WELLS FARGO HOME MORTGAGE

Wells Fargo Home Mortgage
MAC F2301-02F
1 Home Campus
Des Moines, IA 50328

March 16, 2017

EQUAAN D SMITH
6646 SARONI DR
OAKLAND CA 94611-2343

Subject: Your refund check
Loan number: 708-0483719977
Property address: 6646 SARONI DRIVE OAKLAND, CA 94611

Dear EQUAAN SMITH:

We're writing to let you know that the mortgage account referenced above was impacted by a settlement agreement, which prompted us to perform a review of this account. During our review, we determined that this mortgage account is due a refund. We apologize for the inconvenience and have enclosed a refund check.

Information about the settlement and your refund

- The mortgage account above was impacted by the settlement agreement in the In re: Green case pending before the U.S. Bankruptcy Court for the District of Maryland (case# 11-33377). Even though your bankruptcy case may not have been pending in Maryland, it was impacted by the settlement agreement.

- As part of the settlement agreement, we were asked to review the mortgage account to determine if certain activities occurred in a timely manner.

- During our review, we determined that your account is due a refund of $1,401.49 as a result of a late or missed payment change notice, and we've enclosed a check for the refund amount.

- Please consult a tax professional on how this may impact your tax return.

- If you have any questions about the settlement agreement, go to www.wfindependentreview.com, a website established by the Independent Reviewer appointed in the settlement case.

We're here for you

If you have any questions about this letter or need further assistance, please call us at 1-800-274-7025, Monday through Friday, 7:00 a.m. to 8:00 p.m. Central Time.

Bankruptcy Department
Wells Fargo Bank, N.A.
Enclosure

MM-3

WELLS FARGO HOME MORTGAGE

Wells Fargo Home Mortgage
MAC F2301-02F
1 Home Campus
Des Moines, IA 50328

11 BFY-15B 94611

Exhibit 4

Recording Request By
Fidelity National Title Company
Order # 112923

RECORDING REQUESTED BY:
WORLD SAVINGS BANK

2004251442 06/07/2004 08:30 AM
OFFICIAL RECORDS OF ALAMEDA COUNTY
PATRICK O'CONNELL
RECORDING FEE 78.00

4 PGS

WHEN RECORDED MAIL TO:
WORLD SAVINGS
FINAL DOCUMENTATION
CLOSING DEPARTMENT
P.O. BOX 659548
SAN ANTONIO, TX 78265-9548

LOAN NUMBER: 0024362576

NOTE AMOUNT: $629,600.00

FOR RECORDER'S USE ONLY

DEED OF TRUST

THIS IS A FIRST DEED OF TRUST WHICH SECURES A NOTE WHICH CONTAINS PROVISIONS ALLOWING FOR CHANGES IN MY INTEREST RATE, FREQUENCY AND AMOUNT OF PAYMENTS AND PRINCIPAL BALANCE (INCLUDING FUTURE ADVANCES AND DEFERRED INTEREST). AT LENDER'S OPTION THE SECURED NOTE MAY BE RENEWED OR RENEGOTIATED.

THE MAXIMUM AGGREGATE PRINCIPAL BALANCE SECURED BY THIS DEED OF TRUST IS $787,000.00 WHICH IS 125% OF THE ORIGINAL PRINCIPAL NOTE AMOUNT.

I. DEFINITIONS OF WORDS USED IN THIS DEED OF TRUST

(A) Security Instrument. This Deed of Trust, which is dated MAY 19, 2004* * * * * * will be called the "Security Instrument."

008

(B) Borrower. EQUAAN DIA SMITH, AN UNMARRIED ~~MAN~~ WOMAN

sometimes will be called "Borrower" and sometimes simply "I" or "me."

(C) Lender. WORLD SAVINGS BANK, FSB, * ITS SUCCESSORS AND/OR ASSIGNEES, will be called "Lender." Lender is A FEDERAL SAVINGS BANK * * * * * * * * * * * which is organized and exists under the laws of the United States Lender's address is 1901 HARRISON STREET, OAKLAND, CALIFORNIA 94612.

* 0 0 3 *
LENDER'S USE ONLY

0024362576

(D) **Note.** The note signed by Borrower and having the same date as this Security Instrument, including all extensions, renewals, substitutions and modifications thereof, will be called the "Note." The Note shows that I owe Lender the original principal amount of U.S. $629,600.00 * * ("Note Amount"), plus accrued and deferred interest and such other amounts as stated in the Note. I have promised to pay this debt in monthly payments and to pay the debt in full by JUNE 15, 2034.

(E) **Property.** The property that is described below in Section III entitled "Description of the Property" will be called the "Property."

(F) **Sums Secured.** The amounts described below in Section II entitled "Borrower's Transfer of Rights in the Property" sometimes will be called the "Sums Secured."

(G) **Person.** Any person, organization, governmental authority or other party will be called "Person."

(H) **Trustor, Beneficiary, Trustee.** Borrower is the "Trustor," Lender is the "Beneficiary" and GOLDEN WEST SAVINGS ASSOCIATION SERVICE CO., A CALIFORNIA CORPORATION * * * * * * * * is the "Trustee.

II. BORROWER'S TRANSFER OF RIGHTS IN THE PROPERTY

I irrevocably grant and convey the Property to the Trustee, in trust for Lender, with a power of sale subject to the terms of this Security Instrument. This means that, by signing this Security Instrument, I am giving Lender and Trustee those rights that are stated in this Security Instrument and also those rights that the law gives to lenders who are beneficiaries of a deed of trust and to trustees of a deed of trust. I am giving Lender and Trustee these rights to protect Lender from possible losses that might result if I fail to:

(i) pay all amounts owed to Lender under the Note and all other notes secured by this Security Instrument, called the "Secured Notes," including future advances made by Lender and any changes to the Secured Notes made with the written consent of Lender;

(ii) pay, with interest, any amounts that Lender spends under Paragraphs 2 and 7 below to protect the value of the Property and Lender's rights in the Property, and

(iii) keep all of my other promises and agreements under this Security Instrument, the Secured Notes and any changes to the Secured Notes made with the written consent of Lender.

III. DESCRIPTION OF THE PROPERTY

I give Trustee rights in the Property described below.

(i) The property which is located at 6648 SARONI DRIVE, OAKLAND, CA 94611. * The legal description of the Property is attached as Exhibit "A" which is made a part of this Security Instrument. This Property is called the "Described Property."

(ii) All buildings and other improvements that are located on the Described Property;

0024362576

31. (X) QUICK QUALIFYING LOAN PROGRAM
I have qualified for this loan by making statements of fact which were relied upon by Lender to approve the loan rapidly. This loan is called a "Quick Qualifying Loan." I have stated and I confirm that: (A) I do not have any other Quick Qualifying Loans with Lender; (B) I have agreed to not further encumber the Property and do not intend to further encumber the Property for at least six months after the date of the Secured Notes and this Security Instrument; and (C) If I am purchasing the Property, all of the terms of the purchase agreement submitted to Lender are true and the entire down payment is cash from my own funds.

If any of the statements of fact that I have made are materially false or misleading, I will be in default under the Secured Notes and this Security Instrument. If I am in such default, Lender may, at its option, increase the interest rate and margin subject to the Lifetime Rate Cap stated in the Secured Notes.

32. (X) OWNER OCCUPANCY
Lender has relied upon statements of fact which I have made to qualify for this loan I have stated and confirm that: (A) the Property is my personal and primary residence; (B) I will occupy the Property not later than 30 days after this Security Instrument is recorded, and (C) I will use the Property as my residence for at least 12 months from the date this Security Instrument is recorded.

If any of the statements of fact that I have made are materially false or misleading, I will be in default under the Secured Notes and this Security Instrument. If I am in such default, Lender may, at its option, increase the interest rate and margin, subject to the Lifetime Rate Cap stated in the Secured Notes.

(X) VALUE INDICATES THAT THE PARAGRAPH APPLIES.

THIS SPACE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS.

0024362576

BY SIGNING BELOW, I accept and agree to the promises and agreements contained in this Security Instrument and in any rider(s) signed by me and recorded in proper official records

(PLEASE SIGN YOUR NAME EXACTLY AS IT APPEARS BELOW)

BORROWER(S):

_______________________________ (Seal)
EQUAAN DIA SMITH

_______________________________ (Seal)

_______________________________ (Seal)

_______________________________ (Seal)

_______________________________ (Seal)

_______________________________ (Seal)

ATTACH INDIVIDUAL NOTARY ACKNOWLEDGEMENT

A "MODIFICATION TO NOTE AND RIDER TO SECURITY INSTRUMENT" IS ATTACHED HERETO AND RECORDED HEREWITH.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of CONTRA COSTA } ss

On MAY 27, 2004 (Date), before me, THOMAS F. NOON, JR - NOTARY PUBLIC (Name and Title of Officer (e g , "Jane Doe, Notary Public"))

personally appeared EQUAAN DA SMITH (Name(s) of Signer(s)),

☐ personally known to me
☒ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) (is)/are subscribed to the within instrument and acknowledged to me that he/(she)/they executed the same in his/(her)/their authorized capacity(ies), and that by his/(her)/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

THOMAS F. NOON JR.
Comm. # 1394225
NOTARY PUBLIC-CALIFORNIA
Contra Costa County
My Comm Expires Feb 13, 2007

Place Notary Seal Above

WITNESS my hand and official seal.

[signature]
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document

Description of Attached Document

Title or Type of Document Deed of Trust

Document Date ______ Number of Pages ______

Signer(s) Other Than Named Above: ______

Capacity(ies) Claimed by Signer

Signer's Name ______

☐ Individual
☐ Corporate Officer — Title(s): ______
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: ______

Signer Is Representing ______

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

© 1997 National Notary Association • 9350 De Soto Ave , PO Box 2402 • Chatsworth, CA 91313-2402 Prod No 5907 Reorder Call Toll-Free 1-800-876-6827

Exhibit 5

Return Mail Operations
PO Box 10368
Des Moines, IA 50306-0368

WELLS FARGO HOME MORTGAGE

April 5, 2017

Account Information

Fax:	1-866-359-7363
Telephone:	1-800-416-1472
Correspondence:	PO Box 10335 Des Moines, IA 50306
Hours of operation:	Mon - Thurs, 7 a.m. - 9 p.m., Fri, 7 a.m. - 8 p.m., Sat, 8 a.m. - 4 p.m., CT
Loan number:	0483719977
Property address:	6646 Saroni Drive Oakland CA 94611

DCML1TDTZB 011103

EQUAAN D SMITH
6646 SARONI DR
OAKLAND, CA 94611-2343

Subject: Future contact information for your records

Dear Equaan D Smith:

My name is DENIZA CEHAJIC. I am a Wells Fargo Home Mortgage home preservation specialist and wanted to be sure you knew how to contact Wells Fargo Home Mortgage if you require mortgage assistance in the future.

Please hold onto this letter with my contact information. I am now your assigned home preservation specialist should you have a change in circumstances that would affect your qualifications or need for mortgage assistance. I can be reached at the phone number below.

Sincerely,

DENIZA CEHAJIC

DENIZA CEHAJIC
Home Preservation Specialist
Wells Fargo Home Mortgage
Ph: 1-877-311-3581 ext. 1335029330
Fax: 1-866-590-8910

Where appropriate Wells Fargo Home Mortgage is required to inform you that, as your account servicer, we are attempting to collect a debt and any information obtained will be used for that purpose. However, if you are a customer involved in an active bankruptcy case or you received a discharge in a bankruptcy case where the account was not otherwise reaffirmed or excepted from discharge, then this notice is being provided to you for informational purposes only, and this is not a bill or a request for payment as to any such customer(s).

With respect to those accounts secured by property located in the State of California, the state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or

HP016 708 0832

PMN - 5

Account Information
Loan number: 0483719977
Property address: 6646 Saroni Drive
Oakland CA 94611

enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or www.ftc.gov.

Wells Fargo Home Mortgage is a division of Wells Fargo Bank, N. A. © 2016 Wells Fargo Bank, N. A. All rights reserved. NMLSR ID 399801

DCML1TDTZB 011103 NNNNNNNNN NNN NN 002 002 069267 20382932.1

HP016 708 0832

CJHX15B 94611

PRESORTED
FIRST CLASS

Exhibit 6

RE: **Barrett, Daffin, Frappier, Treder, & Weiss**

Equaan Smith
6646 Saroni Dr
Oakland, CA 94611-2343

Case ID: **0209071750**

Date Notice: 2/9/2017
Program: **Reinstatement Workout**
Call For Assistance: 800-681-4220

SALE DATE **4/7/2017**

Stop Foreclosure & Reduce Your Mortgage Payments

Most lenders are committed to helping customers keep their homes. Newport Law, can help you qualify for one of your mortgage lender's pre-foreclosure ***workout options***.

We have reviewed your property information and have determined that you may be eligible to stop / **postpone the sale of your home and reinstate / restructure the terms of your mortgage to:**

$2,654.00

New Estimated Mortgage Payment*:

Loan Amount (Estimated)	New Fixed Rate	New Mortgage Pmt. - Estimated
$629,600	2% - 3%	$2,654.00

* *Estimated proposal terms may vary depending on each client's changing financial situation.*

*If you have experienced any of the following please contact our office for a free consultation:

- Declined loan modification
- Financial hardship / Notice of Default
- High or Adjustable Interest rate
- Negative equity
- Predatory lending / Mortgage Fraud
- Bad Credit / Declined Refinance

Call Toll Free: 800-681-4220
Busy? Schedule a call back by email:
info@newportlawfirm.com

Website:
www.newportlawfirm.com

OPEN:
MONDAY TO FRIDAY
8:00 AM TO 7:00 PM

Free Consultation: 800-681-4220

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NEWPORT LAW
20+ Years' Experience at your service
REAL ESTATE LITIGATION & BANKRUPTCY ATTORNEYS

REAL ESTATE LAW – LENDER LITIGATION – MORTGAGE LAW – FORECLOSURE DEFENSE – TRUSTEE DELAY – BANKRUPTCY
SEE REVERSE SIDE FOR ADDITIONAL INFORMATION

Should you need additional legal advice and/or been denied by Your Current Mortgage Lender, please call Newport Law, for a Free Legal Consultation. This offer does not imply or express guaranteed results. Newport Law. Corporate Office: 5121 Van Nuys Blvd. Ste. 203A Sherman Oaks, CA 91403. Toll Free:800.681.4220, Fax: 800-707.1217. This information was obtained through public records. We are not an affiliated nor associated with the lender listed above or any Government agency. Licensing Disclosure & State Specific Office locations please visit our website www.newportlawfirm.com/licensing. NV Bar No. 7212 – WA Bar# 47720 - OR State Bar#072430

Russell A. Robinson, 163937
Law Office of Russell A. Robinson
345 Grove Street, First Floor
San Francisco CA 94102
Telephone: 415.861.4416
Facsimile: 415.431.4526
e-mail: rlaw345@gmail.com

Counsel for Plaintiff
ÉQUAAN D. SMITH

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA – UNLIMITED CIVIL JURISDICTION

ÉQUAAN D. SMITH, Plaintiff, v. BARRETT, DAFFIN, FRAPPIER, TREDER & WEISS, LLP; WELLS FARGO BANK, NA, successor to WACHOVIA MORTGAGE FSB, formerly known as WORLD SAVINGS BANK, FSB; and, DOES 1-40, Defendants.	No. RG-17-857691 **DECLARATION OF PLAINTIFF'S COUNSEL IN SUPPORT OF APPLICATION FOR PRELIMINARY INUNCTION** Date: May 17, 2017 Time: 2:00 p.m. Dept: 19 Res: R-1848821

I, Russell A. Robinson, hereby declare as follow:

1. I am an attorney licensed to practice before all courts of this State and am Plaintiff's counsel of record herein. The below true and correct facts are of my own personal knowledge, except facts stated as based on information and belief; as to facts so stated, I believe these to be true.

2. I am informed and believe that the defendant managing the trustee sale and in need of restraint is Barrett, Daffin, Frappier, Treder & Weiss, LLP (Barrett). Barrett will not voluntarily refuse the trustee sale of Plaintiff's family home, but must be restrained. I attended the scheduled, 12:30 p.m., trustee sale on April 27, 2017, and spoke with the auctioneer, "Steve." Steve was unaware of the temporary restraining order issued by the Court on April 26, 2017, so I provided a copy to him. The sale was only postponed, at 12:52 p.m., at "trustee's discretion"

after several of my calls to Barrett confirming Barrett had received the April 26, 2017, TRO on April 26, 2017, by facsimile, which I was informed resulted in a review of the order and a restraint on sale. Steve informed me and the several bidders/attendees that the new sale date is May 24, 2017.

3. Attached hereto are the following exhibits, true and correct copies of what each appears to be, taken from the files maintained by my office in the regular course of business:

(7) Snapshot of my Chase IOLTA (Attorney-Client Trust Account) in which I am holding $340,000 of Plaintiff's money for use to reinstate the Wells loan;

(8) The April 18, 2017, letter of reinstatement sent to me by Wells at my request;

(9) The legal description of the property I obtained from the Recorder's Office; and

(10) March 24, 2017, Notice of Trustee Sale (unsigned).

4. I am informed and believe that when Plaintiff initially obtained the subject loan from World Savings, the monthly mortgage amount (payment) was $2,311.42; at the present time, that amount ballooned to $4,986.61, despite a general sharp decline nationally in interest rates.

5. A review of the records published online of the California Secretary of State, Business Portal, indicate that Barrett is not organized and does not exist as a limited liability partnership certified by the Secretary of State pursuant to Corporations Code Sections 16953 or 16959. The Business Portal does not contain any entry for Barrett, and Barrett has thus not designated an agent for service in California.

6. A review of the relevant real property history maintained by the County of Alameda as that pertains to the plaintiff's family home at 6646 Saroni Drive in Oakland indicates as follows:

* Deed of Trust in favor of World Savings, recorded June 7, 2004;
* Grant Deed, recorded June 7, 2004, Natalie Silverman to Équaan Dia Smith;
* Substitution of Trustee, in favor of NDex West, LLC, recorded January 12, 2010;
* Substitution of Trustee, from Wells Fargo Bank, NA, to Barrett Daffin Frappier Treder & Weiss, LLP, recorded April 11, 2016;
* Notice of Default, recorded April 19, 2016;
* Cancel Notice of Default, recorded June 2, 2016;

* Cancel Notice of Default, recorded June 7, 2016;
* Notice of Default, recorded December 8, 2016; and,
* Notice of Trustee Sale, recorded March 27, 2017.

7. Despite multiple requests in writing, Wells has not produced an accounting the means used to arrive at the $481,883.68 figure noted in exhibit 8.

8. Despite multiple requests in writing, Wells and Barrett have not produced evidence that the original promissory note is in the possession of Barrett and has been properly assigned; and, that Barrett has been properly substituted as trustee, with the power to notice default, notice sale, and to complete the trustee sale of Plaintiff's home as the trustee.

I, Russell A. Robinson, hereby declare under penalty of perjury and under the laws of the State of California that the above is true and correct.

Date: May 1, 2017

By: Russell A. Robinson
Law Office of Russell A. Robinson
Counsel for Plaintiff
ÉQUAAN D. SMITH

CERTIFICATE OF SERVICE

At the time of service, I was over the age of 18 years and not a party to this action. My business address was 345 Grove Street, First Floor, San Francisco California 94102. On May 1, 2017, I served the following document(s):

DECLARATION OF PLAINTIFF'S COUNSEL IN SUPPORT OF APPLICATION FOR PRELIMINARY INUNCTION

I certify that all parties hereto shall be, and are hereby, served on counsel of record, as indicated below, and as follows:

through electronic facsimile transmission to the number(s) designated below,
through the United States Postal Service, first class, with postage pre-paid thereon, and addressed as shown below,
through overnight delivery (Fedex), to Barrett Daffin in California, at the address shown below;
through personal delivery to Wells Fargo at the San Francisco address specified below, and
~~through e-mail, pursuant to request/agreement of counsel, as follows:~~

Wells Fargo Bank, NA
Home Mortgage
P.O. Box 10368
Des Moines IA 50306
FAX: 866.590.8910
[Defendant]

Corporate HQ, Office of the CEO
Wells Fargo Bank, NA
420 Montgomery Street
SAN FRANCISCO CA 94104
[Defendant]

Barrett Daffin Frappier Treder & Weiss, LLP
20955 Pathfinder Rd Ste 300
Diamond Bar, CA 91765
TEL: (626) 915-5714
FAX: (626) 915-0289
[Defendant]

Erica Jones, General Counsel
Barrett Daffin Frappier Treder & Weiss, LLP
4004 Belt Line Road
Addison TX 75001
FAX: (972) 661-7800
[Defendant Barrett Daffin Frappier Treder & Weiss, LLP]

I hereby declare under penalty of perjury and under the laws of the State of California that the above is true and correct.

Dated: May 1, 2017

R. Robinson

Exhibit 7

Welcome RUSSELL A ROBINSON ATTY AT LAW

[illegible]345@gmail.com | Last logged on at 4:31 PM ET on 04/16/2017 | See session summary

FIND THE RIGHT BUSINESS CREDIT CARD.
From travel rewards to cash back, we have the right card for you.
Learn more

Wire Money

Access Manager

Payroll

What can we do better?
WE'RE LISTENING ›

Accept credit and debit cards right from your laptop with a merchant services account from Chase.
Learn more

Account Summary

RUSSELL A ROBINSON ATTY AT LAW

Deposit accounts **$342,447.81**

Create a list of your favorite accounts

Business Accounts

Deposit Accounts

Total balance: $342,447.81

Account

IOLTA [redacted]

	Present balance	**$342,447.81**
	Available balance	$342,447.81

See statements | Pay bills | Make a transfer | See routing/account numbers

Payments & Transfers

- Make a transfer
- Pay bills
- Wire money
- Pay a Person using Chase QuickPay℠
- Chase Paymentech Sign-On

Customer Center

- Try Chase Mobile
- Manage Account Alerts
- Change my Password
- Change mailing address, phone and/or email
- Stop payment on a check
- Delegate with Access and Security Manager
- Go to Download Center
- Go to Customer Center

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Equal Opportunity Lender

Security | Terms of Use | Legal Agreements and Disclosures | AdChoices

JPMorgan Chase Bank, N.A. strictly prohibits the use of any account to conduct any transactions that are directly or indirectly related to unlawful Internet gambling or any other illegal activity. The customer agrees not to conduct any transactions through the account that directly or indirectly involve or are related to unlawful Internet gambling, including, without limitation, the acceptance or receipt of any funds or deposits in connection therewith.

Chase's website terms, privacy and security policies don't apply to the site you're about to visit. Please review its website terms, privacy and security policies to see how they apply to you. Chase isn't responsible for (and doesn't provide) any products, services or content at this third-party site, except for products and services that explicitly carry the Chase name.

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Pl-7

Exhibit 8

708/0483719977/XF613/1/2

WELLS FARGO HOME MORTGAGE

April 18, 2017

Equaan D Smith
415-520-6733
Attn:russel Robinson

Wells Fargo Home Mortgage has attached a reinstatement quote for your review

Mortgagor: Equaan D Smith
Property address: 6646 Saroni Drive
Oakland CA 94611

708 Loan Number: 0483719977

To reinstate your mortgage from foreclosure, you'll need to pay the TOTAL AMOUNT DUE $ 481,883.68, by 04-26-17.

All figures are subject to our final verification. We prefer that you send the funds by wire as it is the fastest way to complete the transaction. If wire transfer is not an option, we prefer a cashier's check or certified funds.

Total Number of Payments: 97		
Total Payment Amount		473,545.23
Unpaid Late Charges		4,711.90
Additional Amounts:		
FORECLOSURE FEE/COST		1,580.05
UNPAID ADVANCE BAL		2,046.50
TOTAL AMOUNT DUE through 04-26-17	$	481,883.68

In order for us to reinstate your loan and dismiss the foreclosure action, we must receive the total amount due, on or before 04-26-17. This total amount due is valid through 04-26-17 or until any activity occurs on the account.

If you have questions or need further assistance, please contact us at 1-866-605-0829, Monday - Friday, 7:00 a.m. to 8:00 p.m. Central Time.

RM-8

This is a foreclosure case, we may continue with legal proceedings. Any fees, costs and advances for taxes and insurance payments may also be due in addition to the amount quoted on page 1. The reinstatement figure quoted to you is subject to change without notice. We have the right to correct errors or omissions.

Where appropriate, Wells Fargo Home Mortgage is required to inform you that, as your account servicer, we are attempting to collect a debt and any information obtained will be used for that purpose. However, if you are a customer involved in an active bankruptcy case or you received a discharge in a bankruptcy case where the account was not otherwise reaffirmed or excepted from discharge, then this notice is being provided to you for informational purposes only, and this is not a bill or a request for payment as to any such customer(s).

With respect to those loans secured by property located in the State of California, the state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8:00 a.m. or after 9:00 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or www.ftc.gov.

WHERE TO SEND REINSTATEMENT FUNDS
By WIRE: no checks
Wells Fargo Bank, N.A.
Beneficiary Bank ABA: 121000248
Beneficiary Bank Acct: 3000500412
Beneficiary Bank Address:
420 Montgomery Street
San Francisco CA 94104
Special Information for Beneficiary:
Apply funds to: 708 loan 0483719977
Mortgagor: Equaan D Smith
Sender's Name and Phone Number

By MAIL: including OVERNIGHT
Wells Fargo Home Mortgage
Attn: Reinstatements F2302-04R
1 Home Campus
Des Moines IA 50328

- Funds must be received by 2:00 pm Central Time for same day processing
- Reinstatement funds are not posted on weekends or holidays

Please detach and include with Reinstatement funds.

- -

REINSTATEMENT COUPON

708 Loan No: 0483719977
Property: 6646 Saroni Drive
Oakland CA 94611

Mailing address:
Equaan D Smith
6646 Saroni Dr
Oakland CA 94611

TOTAL REINSTATEMENT AMOUNT: $ 481,883.68
THIS FIGURE IS GOOD THROUGH 04-26-17 AMOUNT REMITTED ________________

Exhibit 9

PAUNAWA NG PAGBEBENTA (Notice of Sale)

BUOD NG PANGUNAHING IMPORMASYON(Summary of Key Information)

Ang nakakalip na notice of sale (pabatid ng pagbebenta) ay ipinadala kay EQUAAN DIA SMITH, AN UNMARRIED WOMAN, bilang kaugnayan
(Nagkakatiwala) (Trustor)

sa 6646 SARONI DRIVE, OAKLAND, CALIFORNIA 94611 .
(paglalarawan sa ari-arian na nagtitibay sa isinangla o deed of trust o papeles ng panagot sa utang, na hindi nabayaran.) (Description of property that secures the mortgage or deed of trust in default.)

IKAW AY HINDI NAKABAYAD SA ILALIM NG DEED OF TRUST
(deed of trust o papeles ng panagot sa utang o isinangla) (Deed of trust or mortgage)
NA MAY PETSA NA 05/19/2004.MALIBAN KUNG KAYO AY KUMILOS UPANG MAPROTEKTAHAN
(Date)

ANG INYONG ARI-ARIAN, MAAARI ITONG IBENTA SA ISANG PAMPUBLIKONG PAGBEBENTA.

KUNG KINAKAILANGAN NINYO NG PAGPAPALIWANAG SA KALIKASAN NG PAGLILITIS LABAN SA INYO, KAILANGAN NINYONG MAKIPAG-UGNAYAN SA ISANG ABOGADO.

Ang kabuuang halaga na dapat bayaran sa notice of sale (pabatid ng pagbebenta) ay $1,038,074.16 .
(Total amount due in the notice of sale)

Ang inyong ari-arian ay nakatakdang mabenta sa 04/27/2017 12:30 PM
(petsa at oras ng pagbebenta) (Date and time of sale)
sa AT THE FALLON STREET ENTRANCE TO THE COUNTY COURTHOUSE, 1225 FALLON STREET, OAKLAND, CA 94612 .
(lugar ng bentahan)(Location of sale)

Gayunman, ang petsa ng pagbebenta na ipinapakita sa nakalakip na notice of sale (pabatid ng pagbebenta) ay maaaring maantala ng isa o mas marami pang beses ng nagkaloob ng isinangla, benepisyaryo, pinagkatiwalaan, o ng korte, alinsunod sa Seksyon 2924g ng Kodigong Sibil ng California. Hinihiling ng batas na ang impornasyon tungkol sa mga pagpaantala sa pagbebenta ng pinagkatiwalaan ay handang maibigay sa inyo at sa publiko, bilang isang kagandahang-loob doon sa mga hindi makakadalo sa bentahan. Kung nais ninyong lubos pang matutunan kung naantala ang inyong petsa sa pagbebenta, at kung naaangkop, ang natakda muli na oras at petsa sa bentahan ng ari-arian, maaari kayong tumawag sa 714-730-2727
(Ang numero ng telepono para makakuha ng impormasyon hinggil sa pagbebenta ng pinagkatiwalaan)
(Telephone number for information regarding the trustee's sale)

o bumisita dito sa Internet Web site address www.servicelinkASAP.com .
(Ang Internet website address para makakuha ng impormasyon hinggil sa pagbebenta ng ari-arian na ito)
(Internet website address for information regarding the sale of this property)
gamit ang numero ng file na itinalaga sa kasong ito 20090015003366 .
(numero ng file ng kaso) (case file number)
Impormasyon tungkol sa mga pagpaaantala sa loob ng maikling panahon o maaaring maganap kalapit ng itinakdang pagbebenta ay maaaring hindi kaagad masaad sa impormasyon mula sa telepono o sa Internet Web site. Ang pinakamainam na paraan upang mapatotohanan ang impormasyon sa pagpaaantala ng petsa ay ang pagdalo sa nakatakdang petsa ng bentahan.

Kung nais ninyo ng karagdagang mga kopya ng buod na ito, maaari ninyong makuha ang mga ito sa pamamagitna ng pagtawag sa (866) 795-1852 .
(Ilagay ang numero ng telepono) (Telephone number)

Lot 293, according to the map of Montclair Highlands filed September 11, 1925, in the office of the County Recorder of Alameda County and of Record in Map Book 4, pages 88 and 89.

Assessor's Parcel No: 048E-7346-025

Barrett Daffin Frappier
Treder & Weiss, LLP
4004 Belt Line Road
Suite 100
Addison, TX 75001-4320

15634283

20090015003366 04/07/2017

EQUAAN DIA SMITH
6646 SARONI DRIVE
OAKLAND, CA 94611

IMPORTANT INFORMATION IS CONTAINED WITHIN THE ATTACHED NOTICE.

PLEASE READ CAREFULLY

BARRETT DAFFIN FRAPPIER TREDER & WEISS, LLP IS A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

03 01 CA N 02

HP

FCUS_Std_Banner_Portrait_DocGen_HP.rpt - (05/02/2016) / Ver-11

MH-10

Recording requested by:
LSI Title Company

When Recorded Mail To:
BARRETT DAFFIN FRAPPIER TREDER & WEISS, LLP
4004 Belt Line Road, Suite 100
Addison, Texas 75001-4320
(866) 795-1852

APN #: 048E-7346-025
Property Address:
6646 SARONI DRIVE
OAKLAND, CALIFORNIA 94611

NOTS20090015003366

THIS IS A FULL, TRUE AND CORRECT COPY OF THE ORIGINAL RECORDED IN THE OFFICE OF ALAMEDA COUNTY
RECORDING FEE: $28.00
RECORDED ON: March 24, 2017
AS DOCUMENT NO: 2017069995
BY: s/ VANGIE ORTEGA
SERVICELINK TITLE COMPANY

Space above this line for Recorder's use only

Trustee Sale No. : 20090015003366 Title Order No.: 090831374 FHA/VA/PMI No.:

NOTICE OF TRUSTEE'S SALE

ATTENTION RECORDER: THE FOLLOWING REFERENCE TO AN ATTACHED SUMMARY APPLIES ONLY TO COPIES PROVIDED TO THE TRUSTOR, NOT TO THIS RECORDED ORIGINAL NOTICE.

NOTE: THERE IS A SUMMARY OF THE INFORMATION IN THIS DOCUMENT ATTACHED
注：本文件包含一个信息摘要
참고사항: 본 첨부 문서에 정보 요약서가 있습니다
NOTA: SE ADJUNTA UN RESUMEN DE LA INFORMACIÓN DE ESTE DOCUMENTO
TALA: MAYROONG BUOD NG IMPORMASYON SA DOKUMENTONG ITO NA NAKALAKIP
LƯU Ý: KÈM THEO ĐÂY LÀ BẢN TRÌNH BÀY TÓM LƯỢC VỀ THÔNG TIN TRONG TÀI LIỆU NÀY

YOU ARE IN DEFAULT UNDER A DEED OF TRUST, DATED 05/19/2004. UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT MAY BE SOLD AT A PUBLIC SALE. IF YOU NEED AN EXPLANATION OF THE NATURE OF THE PROCEEDING AGAINST YOU, YOU SHOULD CONTACT A LAWYER.

BARRETT DAFFIN FRAPPIER TREDER & WEISS, LLP, as duly appointed Trustee under and pursuant to Deed of Trust **Recorded on 06/07/2004 as Instrument No. 2004251442** of official records in the office of the County Recorder of **ALAMEDA** County, State of CALIFORNIA.
EXECUTED BY: EQUAAN DIA SMITH, AN UNMARRIED WOMAN,
WILL SELL AT PUBLIC AUCTION TO HIGHEST BIDDER FOR CASH, CASHIER'S CHECK/CASH EQUIVALENT or other form of payment authorized by California Civil Code 2924h(b), (payable at time of sale in lawful money of the United States).
DATE OF SALE: 04/27/2017 TIME OF SALE: 12:30 PM
PLACE OF SALE: AT THE FALLON STREET ENTRANCE TO THE COUNTY COURTHOUSE, 1225 FALLON STREET, OAKLAND, CA 94612.
STREET ADDRESS and other common designation, if any, of the real property described above is purported to be:
6646 SARONI DRIVE, OAKLAND, CALIFORNIA 94611
APN#: 048E-7346-025

The undersigned Trustee disclaims any liability for any incorrectness of the street address and other common designation, if any, shown herein. Said sale will be made, but without covenant or warranty, expressed or implied, regarding title, possession, or encumbrances, to pay the remaining principal sum of the note(s) secured by said Deed of Trust, with interest thereon, as provided in said note(s), advances, under the terms of said Deed of Trust, fees, charges and expenses of the Trustee and of the trusts created by said Deed of Trust. The total amount of the unpaid balance of the obligation secured by the property to be sold and reasonable estimated costs, expenses and advances at the time of the initial publication of the Notice of Sale is **$1,038,074.16**. The beneficiary under said Deed of Trust heretofore executed and delivered to the undersigned a written Declaration of Default and Demand for Sale, and a written Notice of Default and Election to Sell. The undersigned caused said Notice of Default and Election to Sell to be recorded in the county where the real property is located.

NOTICE TO POTENTIAL BIDDERS: If you are considering bidding on this property lien, you should understand that there are risks involved in bidding at a trustee auction. You will be bidding on a lien, not on the property itself. Placing the highest bid at a trustee auction does not automatically entitle you to free and clear ownership of the property. You should also be aware that the lien being auctioned off may be a junior lien. If you are the highest bidder at the auction, you are or may be responsible for paying off all liens senior to the lien being auctioned off, before you can receive clear title to the property. You are encouraged to investigate the existence, priority, and size of outstanding liens that may exist on this property by contacting the county recorder's office or a title insurance company, either of which may charge you a fee for this information. If you consult either of these resources, you should be aware that the same lender may hold more than one mortgage or deed of trust on the property.

NOTICE TO PROPERTY OWNER: The sale date shown on this notice of sale may be postponed one or more times by the mortgagee, beneficiary, trustee, or a court, pursuant to Section 2924g of the California Civil Code. The law requires that information about trustee sale postponements be made available to you and to the public, as a courtesy to those not present at the sale. If you wish to learn whether your sale date has been postponed, and, if applicable, the rescheduled time and date for the sale of this property, you may call 714-730-2727 for information regarding the trustee's sale or visit this Internet Web site www.servicelinkASAP.com for information regarding the sale of this property, using the file number assigned to this case 20090015003366. Information about postponements that are very short in duration or that occur close in time to the scheduled sale may not immediately be reflected in the telephone information or on the Internet Web site. The best way to verify postponement information is to attend the scheduled sale.

FOR TRUSTEE SALE INFORMATION PLEASE CALL:
AGENCY SALES & POSTING
714-730-2727
www.servicelinkASAP.com

BARRETT DAFFIN FRAPPIER TREDER & WEISS, LLP IS ACTING AS A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

BARRETT DAFFIN FRAPPIER TREDER & WEISS, LLP as Trustee
20955 Pathfinder Road, Suite 300
Diamond Bar, CA 91765
(866) 795-1852

________________________________ Dated: **03/23/2017**

Russell A. Robinson, 163937
Law Office of Russell A. Robinson
345 Grove Street, First Floor
San Francisco CA 94102
Telephone: 415.861.4416
Facsimile: 415.431.4526
e-mail: rlaw345@gmail.com

Counsel for Plaintiff
ÉQUAAN D. SMITH

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA – UNLIMITED CIVIL JURISDICTION

ÉQUAAN D. SMITH, Plaintiff, v. BARRETT, DAFFIN, FRAPPIER, TREDER & WEISS, LLP; WELLS FARGO BANK, NA, successor to WACHOVIA MORTGAGE FSB, formerly known as WORLD SAVINGS BANK, FSB; and, DOES 1-40, Defendants.	No. RG-17-857691 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION AND APPLICATION FOR PRELIMINARY INJUNCTION** **[JURY TRIAL DEMANDED]** Date: May 17, 2017 Time: 2:00 p.m. Dept: 19 Res: R-1848821

I. INTRODUCTION

This motion, to enjoin sale of Plaintiff's family home, is necessary because Defendants simply cannot produce the original promissory note ostensibly executed by Plaintiff in 2004 and cannot produce proper documentation showing their own claims are sound. Defendants have sought to foreclose despite Plaintiff's ongoing and/or re-entry loan modification effort; Plaintiff's prior (2016) modification request was rejected on false and contradictory bases.

Plaintiff – who has not waived defenses to the present, non-judicial foreclosure effort – has requested these materials as well as an accounting of the amount the loan servicing entity has specified to reinstate the loan. Plaintiff is able to tender, but in view of her own calculations and the servicing entity's accounting errors, she has serious doubts and misgivings about the reinstatement amount claimed as of April 18, 2017.

A. Relief Sought.

Plaintiff Équaan D. Smith hereby moves and applies to this Court for a Preliminary Injunction, seeking to restrain Defendants Barrett, Daffin, Frappier, Treder & Weiss, LLP (Barrett), and Wells Fargo Bank, NA (Wells) from selling at trustee sale on May 24, 2017 (or at any time pending trial on the merits), at 12:30 p.m., the home at 6646 Saroni Drive, in Oakland California, in which Plaintiff resides, and has resided since June 2004, with her family.

B. Subject Property and Parties.

That home is located at 6646 Saroni Drive, in Oakland. [A copy of the legal description is submitted exhibit 9] The Property's APN is 048E-7346-025.

One of the named defendants, Barrett, Daffin, Frappier, Treder & Weiss, LLP (Barrett), is apparently a limited liability partnership. However, Barrett is not listed or registered with the California Secretary of State, and has designated on all material received by Plaintiff an address in Addison Texas. Barrett has also included a California address in Diamond Bar on correspondence, but that address is not registered as its agent's address for service of process because Barrett is unlisted. [Decl. Of Counsel, ¶5]

Wells, apparently the loan servicer or successor in interest through a convoluted chain of transactions – none of which is recorded in Alameda County and none of which have been demonstrated to Plaintiff – has its corporate headquarters in the City & County of San Francisco, but designates 1 Home Campus, Des Moines IA 50328, as its address on all correspondence. [*See, e.g.,* RFJN #3; also, exhibit 8]

C. Availability of Injunctive Relief.

In seeking a preliminary injunction, a plaintiff must establish "irreparable injury or interim harm that [she] will suffer if an injunction is not issued pending an adjudication of the merits." In California, as a general matter, the question whether a preliminary injunction should be granted involves two interrelated factors:

(1) the likelihood that the plaintiff will prevail on the merits; and,
(2) the relative balance of harms that is likely to result from the granting or denial of interim injunctive relief. *White v. Davis* (2003) 30 Cal.4th 528, 554.

As explained in *IT Corp. v. County of Imperial* [(1983) 35 Cal.3d 63, 69-70], "[t]his court has traditionally held that trial courts should evaluate two interrelated factors when deciding whether or not to issue a preliminary injunction. The first is the likelihood that the plaintiff will prevail on the merits at trial. The second is the interim harm that the plaintiff is likely to sustain if the injunction were denied compared to the harm that the defendant is likely to suffer if the preliminary injunction were issued."

"While the mere possibility of harm to the plaintiffs is insufficient to justify a preliminary injunction, the plaintiffs are not required to wait until they have suffered actual harm before they apply for an injunction, but may seek injunctive relief against the threatened infringement of their rights." *Costa Mesa City Employees Assn. v. City of Costa Mesa* (2012) 209 Cal. App. 4th 298, 305. "The trial court's determination must be guided by a 'mix' of the potential-merit and interim-harm factors; the greater the plaintiff's showing on one, the less must be shown on the other to support [a restraining order]. . . . " *Church of Christ in Hollywood v. Superior Court* (2002) 99 Cal. App. 4th 1244, 1251 [citations]. The standard and burdens are the same with regard to temporary restraining orders as with preliminary injunctions. *Id.*

Real property is "unique." Weil & Brown, *California Practice Guide, Civil Procedure Before Trial,* §9:523 [citations]. Courts view even the threat of foreclosure as an injury to the plaintiff. *See, e.g, Rosenfeld v. Nationstar Mortg., LLC*, (CD Cal. 2014) 2014 WL 457920, at 6; also, *Clemens v. JP Morgan Chase Nat'l Corp. Servs., Inc.,* (ND Cal. 2009) 2009 WL 4507742, at 7, abrogated on other grounds by *Sonoda v. Amerisave Mortg. Corp.,* (ND Cal. 2011) 2011 WL 2690451; *Sullivan v. Wash. Mutual Bank,* (ND Cal. 2009) 2009 WL 3458300, at 4.

This lightens Plaintiff's burden of showing a reasonable probability of success on the merits. Weil & Brown, *Calif. Practice Guide, Civil Procedure Before Trial,* §§ 9:530-9.531 [citations]. Thus, hardship to Plaintiff is presumed should she lose her family's home. However, as set forth herein and in the Verified Complaint, there is a substantial likelihood that Plaintiff will prevail on the merits.

California Code of Civil Procedure (CCP), §526 identifies "[c]ases in which injunction may or may not be granted." See also CCP §§ 525, et seq. "An injunction is a writ or order requiring a person to refrain from a particular act. It may be granted by the court in which the action is brought, . . .; and when granted by a judge, it may be enforced as an order of the court."

The California Civil Code provides for injunctive relief in many circumstances. *E.g.,* Civil Code §2924.12(a)(1); and, §2924.19(a)(1) ["a borrower may bring an action for injunctive relief to enjoin a material violation of Section 2923.5, 2924.17, or 2924.18"].

Defendants' possession of the original note is a key factor to be determined. An assignment of the debt carries with it the security. Civil Code §2936. Defendants have not produced evidence that they have the original note. [*See, e.g.,* Decl. Of Counsel, ¶8]

II. RELEVANT FACTS

Plaintiff learned initially through a third-party mailing that, while she was proceeding through the home loan modification process, Wells had placed her loan in a default status and that a trustee sale was being scheduled. [Verified Complaint, ¶14, RFJN #1]

After further investigation, Plaintiff was informed that the trustee sale was set for April 27, 2017, while Plaintiff's present loan modification application through the "re-entry" program is pending. [Verified Complaint, ¶29]

Plaintiff, now employed by the Santa Clara County Office of the Public Defender, will suffer irreparable harm should the sale be permitted to proceed. [Decl. of Équaan D. Smith, ¶10] Thus, plaintiff seeks this Court's assistance to prevent the trustee sale so that modification the process may be completed, or, in the alternative, Wells can provide an accounting so that Plaintiff may reinstate the loan at an agreed upon figure. Wells claims that Plaintiff's reinstatement amount is $481,883.68. [*E.g.,* exhibit 8] *Plaintiff has these funds available if Wells would only provide an accounting and the two sides can agree on an amount actually due.* [exhibits 1, 2, & 7; also, Declaration of Équaan D. Smith, ¶¶ 4-8]

On information and belief, the defendant managing the trustee sale and in need of restraint is Barrett. Barrett will not voluntarily halt the planned trustee sale of Plaintiff's family home, but must be restrained. [Decl. Of Counsel, ¶2]

When Plaintiff initially obtained the subject loan from World Savings, the monthly mortgage amount (payment) was $2,311.42; at the present time, that amount ballooned to $4,986.61, despite a general sharp decline nationally in interest rates. [Decl. Of Counsel, ¶4]

A review of the California Secretary of State's records online (Business Portal) indicates Barrett is not organized and does not exist as a limited liability partnership certified by the Secretary of State pursuant to Corporations Code Sections 16953 or 16959; or, the State Bar (limited liability partnerships must be certified by California's Secretary of State pursuant to Corporations Code Sections 16953 or 16959). The Portal does not contain any data for Barrett, and Barrett has thus not designated an agent for service in California. [Decl. Of Counsel, ¶5]

Relevant real property history maintained by the County of Alameda as that pertains to the plaintiff's family home at 6646 Saroni Drive in Oakland indicates as follows:

* Deed of Trust in favor of World Savings, recorded June 7, 2004;
* Grant Deed, recorded June 7, 2004, Natalie Silverman to Équaan Dia Smith;
* Substitution of Trustee, in favor of NDex West, LLC, recorded January 12, 2010;
* Substitution of Trustee, from Wells Fargo Bank, NA, to Barrett Daffin Frappier Treder & Weiss, LLP, recorded April 11, 2016;
* Notice of Default, recorded April 19, 2016;
* Cancel Notice of Default, recorded June 2, 2016;
* Cancel Notice of Default, recorded June 7, 2016;
* Notice of Default, recorded December 8, 2016; and,
* Notice of Trustee Sale, recorded March 27, 2017. [Decl. Of Counsel, ¶6]

Despite multiple requests in writing, Wells has not produced an accounting the means used to arrive at the $481,883.68 figure noted in exhibit 8. [Decl. Of Counsel, ¶7] Despite multiple requests in writing, Wells and Barrett have not produced evidence that the original promissory note is in the possession of Barrett and has been properly assigned; and, that Barrett has been properly substituted as trustee, with the power to notice default, notice sale, and to complete the trustee sale of Plaintiff's home as the trustee. [Decl. Of Counsel, ¶8]

II. SALIENT FACTS FROM THE COMPLAINT[1]

A. The Real Property Is Plaintiff's Family Home, Owned Since 2004.

This case involves a piece of real property located at 6646 Saroni Drive, in Oakland.

On or about May 19, 2004, Plaintiff made, executed and delivered to World a Note for the sum of $629,000.00 (the "Note"). Pursuant to the Note, Plaintiff was obligated to make monthly payments for thirty (30) years, until 2034, when all outstanding amounts are due and payable.

---

1 The Complaint is verified.

At about the same time, Plaintiff made, executed and delivered to World a Deed of Trust (the "Deed of Trust") granting World a security interest in the Property at 66646 Saroni Drive, in Oakland, which is more fully described in the Deed of Trust, and not to exceed a sum certain. The Deed of Trust was recorded on about June 7, 2004. [Verified Complaint (VC), ¶6]

On December 31, 2007, World Savings Bank, FSB's charter and bylaws were amended to change its name to Wachovia Mortgage, FSB. On November 1, 2009, on information and belief, Wachovia Mortgage FSB converted to a national bank with the name Wells Fargo Bank Southwest, National Association; effective November 1, 2009, Wells Fargo Bank Southwest, National Association merged with Wells Fargo Bank, National Association. Title of the Property was not changed to reflect this change in ownership; thus, Wells is not the owner of the note secured by Plaintiff's property; World remains the owner of the note. [VC, ¶¶ 7 & 8]

B. Plaintiff Became Unable to Meet the Escalating Loan Payments.

Plaintiff eventually was unable to meet the obligations under the terms of the loan. Monthly payments were missed as the amount due continued to increase under the adjustable feature (ARM) of the subject note. Plaintiff was forced into bankruptcy. [VC, ¶¶ 9 & 10]

C. Wells Placed Plaintiff Into Default, and Ostensibly Rejected Initial Modification Application on Pret-textual, Contradictory Bases Without Explanation.

Eventually, after rejecting Plaintiff's 2016 request for loan modification, Wells placed Plaintiff into default. Plaintiff is unclear as to the exact date she was placed into default, but does know that Wells ultimately rejected her modification request, falsely stating on September 21, 2016, that "We are sending you a letter to inform you that we will no longer be considering your application for mortgage assistance. . . . [because] we have not received all of the required documents; therefore, we can no longer move forward with your application." Plaintiff provided everything to Wells during the modification process. Some items were sent several times because Wells denied receiving the materials. In addition, the reason Wells gave for rejecting the modification request just days before September 21, 2016, was that Plaintiff would be "unable to afford" the modified monthly loan payment – but Wells never informed Plaintiff what that amount would be, how that amount was determined, etc., despite several requests to specify that monthly amount and the basis(es) of the amount's determination. [VC, ¶12]

D. Plaintiff Is Able to Reinstate the Loan, But Wells Refuses to Produce An Accounting Despite Having Notified Plaintiff that Some Charges Were Improper.

Wells contends that the estimated payoff owing under the Note as of March 2017 is $1,038,074.16. Wells also claimed that as of April 18, 2017, the reinstatement amount was $481,883.68. Upon receiving this reinstatement quote only upon demand by Plaintiff, Plaintiff requested Wells provide an accounting with detailed breakdown of the reinstatement amount so Plaintiff could tender that amount to Wells before April 27, 2017. [VC, ¶13]

. On March 16, 2017, Wells apparently created a letter indicating that Plaintiff was to receive $1,401.49 as a refund pursuant to a class action settlement – a "result of late or missed payment change notice. . . ." That letter was post-marked March 20, 2017, and received by Plaintiff on March 27, 2017, more than ten days after it was created. [VC, ¶47; also, exhibit 3]

Plaintiff is in possession of an amount greater that the amount Wells claims is due for reinstatement. [Smith Declaration, ¶¶ 3-7] "Given Wells Fargo Bank's conduct throughout efforts at modification, described in the Verified Complaint, [Plaintiff is] reluctant to part with an extra $50,000 at this juncture absent a legitimate accounting or detailed breakdown of calculations used to arrive at the higher figure." [Smith Declaration, ¶8]

E. Wells and Barrett Failed to Provide Proper Notice of Default and Sale.

Plaintiff first learned from a third-party mailer (advertisement) there was a trustee sale set of the Property for "April 7, 2017." The notice did not come from Defendants. [¶14; also, exhibit 6]

Wells and/or Barrett have not posted notice of the trustee sale on the Property. [VC, ¶15]

Wells and/or Barrett have not executed several of the documents pertaining to the Trustee sale. [VC, ¶16]

F. There Is A Failure to Assign The Note to the Successors and the Trustee.

With regard to a trustee sale, Barrett recorded a notice of default. This was before any substitution or assignment from World to Barrett. The Property has not been sold at trustee sale as of the dare of this filing. On April 11, 2016, Defendant Barrett caused to be recorded a substitution of trustee from Wells to Barrett, but the substitution did not involve World or

Wachovia. [VC, ¶¶ 17 & 18]

On about April 19, 2016, Defendant Barrett caused to be recorded notice of default, without a substitution from World or Wachovia, to Wells, and without recording a notice of default by the bona fide trustee. On about June 2, 2016, and again June 7, 2016, Barrett recorded cancellations of the default notice. [VC, ¶19] After the pre-textual and bizarre contradictory rejection of Plaintiff's request for home loan modification, Barrett caused a notice of default to be recorded on about December 8, 2016, and notice of trustee sale on March 27, 2017. Trustee sale was set for April 27, 2017. [VC, ¶20]

Defendants claim title to the Property as described above despite (or pursuant to) defective substitutions, foreclosure notice(s), and trustee sale. If the sale is eventually permitted, Plaintiff and her family (living with her at the Property are two of her children, ages 14 and 9, as well as her husband; two additional college-aged children reside part-time with Plaintiff at the Property) will be irreparably harmed. [VC, ¶21; also, Smith Declaration, ¶9]

G. Defendants Refuse to Halt the Trustee Sale.

Plaintiff demanded Defendants cease their conduct and that Defendants not carry through with the sale, but Defendants refuse to cease all unlawful activity. Plaintiff, without adequate remedy at law, will be forever harmed if the Property is in fact sold. Defendants' continued and wrongful conduct will cause great and irreparable harm to Plaintiff; *e.g.,* she and her family will be evicted from their residence of almost 15 years, uprooted, and lose her hopes and dreams invested in the subject Property; and, *inter alia*, she will unable to sell the home/property at true value (estimated at 1.5 million dollars). [VC, ¶¶ 22-23]

This action seeks to prevent sale of the family home, and seeks damages for Defendants' unlawful activity. Verified Complaint filed April 24, 2017, contains nine causes of action:

1. California Homeowner Bill of Rights (California Civil Code §§ 2920-2967);
2. Civil Code Sections 2924-2924c;
3. California Civil Code section 2924.9;
4. California Civil Code section 2924c – Reinstatement;
5. Breach of the Implied Covenant of Good Faith and Fair Dealing;

6. Unfair Business Practices;
7. Negligence;
8. Intentional Infliction of Emotional Distress; and,
9. Quiet title.

Plaintiff seeks injunctive relief as well as monetary damages.

III. AUTHORITIES

California Code of Civil Procedure (CCP) section 526 states in relevant part as follows:

(a) An injunction may be granted in the following cases:

(1) When it appears by the complaint that the plaintiff is entitled to the relief demanded, and the relief, or any part thereof, consists in restraining the commission or continuance of the act complained of, either for a limited period or perpetually.

(2) When it appears by the complaint or affidavits that the commission or continuance of some act during the litigation would produce waste, or great or irreparable injury, to a party to the action.

(3) When it appears, during the litigation, that a party to the action is doing, or threatens, or is about to do, or is procuring or suffering to be done, some act in violation of the rights of another party to the action respecting the subject of the action, and tending to render the judgment ineffectual.

(4) When pecuniary compensation would not afford adequate relief.

(5) Where it would be extremely difficult to ascertain the amount of compensation which would afford adequate relief.

(6) Where the restraint is necessary to prevent a multiplicity of judicial proceedings.

(7) Where the obligation arises from a trust.

(b) An injunction cannot be granted in the following cases:

(1) To stay a judicial proceeding pending . . ., unless . . . necessary to prevent a multiplicity of proceedings.

(2) To stay proceedings in a court of the United States.

(3) To stay proceedings in another state upon a judgment of a court of that state.

(4) To prevent the execution of a public statute by officers of the law for the public benefit.

(5) To prevent the breach of a contract the performance of which would not be specifically enforced, . . .

(6) To prevent the exercise of a public or private office, in a lawful manner, by the

person in possession.

(7) To prevent a legislative act by a municipal corporation.

None of the exceptions apply. That is, the relief sought by Plaintiff is not prohibited. Conversely, Plaintiff is able to show, and does show, that she is entitled to relief, that she will suffer irreparable harm if the trustee sale is not enjoined, that a judgment post-sale in her favor would be ineffectual because no court would evict a *bona fide* purchaser from Plaintiff's family home, and that an adequate remedy at law – damages – does not exist.

As one court determined in an analogous case,

> Foreclosure pending suit would render moot any claim of right of plaintiffs individually or derivatively to have the validity or invalidity of the trust deed determined. They are asserting a right to have the deed declared void as a cloud on title, set aside as a fraudulent conveyance, and to have a constructive trust in the land and assets of the corporation declared. They would have no rights as against a bona fide purchaser for value at the execution sale. The preliminary injunction would preserve their rights in *statu quo* until trial on the merits. . . .
>
> *Do plaintiffs have any plain, speedy or adequate remedy at law?* No. Their secondary prayer is for monetary relief. There are various possibilities which might happen in the court action. *Weingand v. Atlantic Sav. & Loan Assn.* (1970) 1 Cal.3d 806, 819.

IV. CONCLUSION

The Court should grant the motion and issue a preliminary injunction, preventing the sale of the plaintiff's home until trial on the merits. Further default activity or sale activity should be halted pending a trial on the merits of Plaintiff's claims.

Date: May 1, 2017

By: Russell A. Robinson
Law Office of Russell A. Robinson
Counsel for Plaintiff
ÉQUAAN D. SMITH

CERTIFICATE OF SERVICE

At the time of service, I was over the age of 18 years and not a party to this action. My business address was 345 Grove Street, First Floor, San Francisco California 94102. On May 1, 2017, I served the following document(s):

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION AND APPLICATION FOR PRELIMINARY INJUNCTION

I certify that all parties hereto shall be, and are hereby, served on counsel of record, as indicated below, and as follows:

through electronic facsimile transmission to the number(s) designated below,
through the United States Postal Service, first class, with postage pre-paid thereon, and addressed as shown below,
through overnight delivery (Fedex), to Barrett Daffin in California, at the address shown below;
through personal delivery to Wells Fargo at the San Francisco address specified below, and
~~through e-mail, pursuant to request/agreement of counsel, as follows:~~

Wells Fargo Bank, NA
Home Mortgage
P.O. Box 10368
Des Moines IA 50306
FAX: 866.590.8910
[Defendant]

Corporate HQ, Office of the CEO
Wells Fargo Bank, NA
420 Montgomery Street
SAN FRANCISCO CA 94104
[Defendant]

Barrett Daffin Frappier Treder & Weiss, LLP
20955 Pathfinder Rd Ste 300
Diamond Bar, CA 91765
TEL: (626) 915-5714
FAX: (626) 915-0289
[Defendant]

Erica Jones, General Counsel
Barrett Daffin Frappier Treder & Weiss, LLP
4004 Belt Line Road
Addison TX 75001
FAX: (972) 661-7800
[Defendant Barrett Daffin Frappier Treder & Weiss, LLP]

I hereby declare under penalty of perjury and under the laws of the State of California that the above is true and correct.

Dated: May 1, 2017

R. Robinson

Russell A. Robinson, 163937
Law Office of Russell A. Robinson
345 Grove Street, First Floor
San Francisco CA 94102
Telephone: 415.861.4416
Facsimile: 415.431.4526
e-mail: rlaw345@gmail.com

Counsel for Plaintiff
ÉQUAAN D. SMITH

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA – UNLIMITED CIVIL JURISDICTION

ÉQUAAN D. SMITH, Plaintiff, v. BARRETT, DAFFIN, FRAPPIER, TREDER & WEISS, LLP; WELLS FARGO BANK, NA, successor to WACHOVIA MORTGAGE FSB, formerly known as WORLD SAVINGS BANK, FSB; and, DOES 1-40, Defendants.	No. RG-17-857691 **REQUEST FOR JUDICIAL NOTICE** Date: May 17, 2017 Time: 2:00 p.m. Dept: 19 Res: R-1848821

Plaintiff ÉQUAAN D. SMITH hereby requests the Court take judicial notice at hearing of yhis matter on May 17, 2017, in connection with her application for preliminary injunction to be considered on said date, pursuant to California Rules of Evidence, Rules 452-454:

RFJN #1: Verified Complaint for Damages, Declaratory Relief, and for Injunctive Relief (filed April 24, 2017), attached;

RFJN #2: April 26 2017 (stamped April 25, 2017), Order Granting Temporary Restraining Order and order to Show Cause, attached; and,

RFJN #3: May 26, 2015, Statement of Information filed with the California Secretary of State, by Wells Fargo Bank, National Association, indicating that

corporate headquarters is located in San Francisco, attached.

Date: May 1, 2017

By: Russell A. Robinson
Law Office of Russell A. Robinson
Counsel for Plaintiff
ÉQUAAN D. SMITH

CERTIFICATE OF SERVICE

At the time of service, I was over the age of 18 years and not a party to this action. My business address was 345 Grove Street, First Floor, San Francisco California 94102. On May 1, 2017, I served the following document(s):

REQUEST FOR JUDICIAL NOTICE

I certify that all parties hereto shall be, and are hereby, served on counsel of record, as indicated below, and as follows:

through electronic facsimile transmission to the number(s) designated below,
through the United States Postal Service, first class, with postage pre-paid thereon, and addressed as shown below,
through overnight delivery (Fedex), to Barrett Daffin in California, at the address shown below;
through personal delivery to Wells Fargo at the San Francisco address specified below, and
~~through e-mail, pursuant to request/agreement of counsel, as follows:~~

Wells Fargo Bank, NA
Home Mortgage
P.O. Box 10368
Des Moines IA 50306
FAX: 866.590.8910
[Defendant]

Corporate HQ, Office of the CEO
Wells Fargo Bank, NA
420 Montgomery Street
SAN FRANCISCO CA 94104
[Defendant]

Barrett Daffin Frappier Treder & Weiss, LLP
20955 Pathfinder Rd Ste 300
Diamond Bar, CA 91765
TEL: (626) 915-5714
FAX: (626) 915-0289
[Defendant]

Erica Jones, General Counsel
Barrett Daffin Frappier Treder & Weiss, LLP
4004 Belt Line Road
Addison TX 75001
FAX: (972) 661-7800
[Defendant Barrett Daffin Frappier Treder & Weiss, LLP]

I hereby declare under penalty of perjury and under the laws of the State of California that the above is true and correct.

Dated: May 1, 2017

R. Robinson

RFJN #1

Russell A. Robinson (163937)
Law Office of Russell A. Robinson
345 Grove Street, First Floor
San Francisco CA 94102
Telephone: 415.861.4416
Facsimile: 415.431.4526
e-mail: rlaw345@gmail.com

Counsel for Plaintiff
ÉQUAAN D. SMITH

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA – UNLIMITED CIVIL JURISDICTION

ÉQUAAN D. SMITH, Plaintiff, v. BARRETT, DAFFIN, FRAPPIER, TREDER & WEISS, LLP; WELLS FARGO BANK, NA, successor to WACHOVIA MORTGAGE FSB, formerly known as WORLD SAVINGS BANK, FSB; and, DOES 1-40, Defendants.	No. RG17857691 **VERIFIED COMPLAINT FOR DAMAGES, DECLARATORY RELIEF, AND FOR INJUNCTIVE RELIEF** **[JURY TRIAL DEMANDED]**

Plaintiff ÉQUAAN D. SMITH hereby alleges and claims as follows:

1. The claims alleged below arose in and around the City of Oakland, in the State of California. The subject real property is located in Oakland. Therefore, venue is proper in the County of Alameda.

2. This case involves a piece of real property located at 6646 Saroni Drive, in Oakland (the Property). The Property has been owned by Plaintiff for over ten years. Plaintiff purchased the Property in 2004, obtaining title through a deed recorded on about June 7, 2004.

PARTIES

3. Plaintiff ÉQUAAN D. SMITH is an adult, African-American woman residing in the County of Alameda.

4. Plaintiff is informed and believes that Defendant BARRETT, DAFFIN, FRAPPIER,

TREDER & WEISS, LLP (Barrett), claims to be Trustee in connection with a Notice of Trustee Sale pertaining to the Property. Barrett ostensibly claims that in 2016 it received assignment of the deed of trust dated May 19, 2004. On information and belief, WELLS FARGO BANK, NA (Wells) claims to be successor in interest to WACHOVIA MORTGAGE FSB (Wachovia), which itself may have been formerly known as, or is successor in interest to, WORLD SAVINGS BANK, FSB (World).

5. On information and belief, Wells is or was at relevant times a bank, organized under laws as those laws pertain to the creation and maintenance of such financial institutions, incorporated in the State of California, registered with the California Secretary of State. On information and belief, Barrett is not registered with the California Secretary of State, and thus is not authorized to conduct business or to maintain actions in the California. Barrett's failure to be admitted violates California law. In order to form in California, an LLP must first register with the California Secretary of State. An LLP formed in another state must register with the California Secretary of State prior to conducting business in the state. Barrett has done neither.

BACKGROUND

6. On or about May 19, 2004, Plaintiff made, executed and delivered to World a Note for the sum of $629,000.00 (the "Note"). Pursuant to the Note, Plaintiff was obligated to make monthly payments for thirty (30) years, until 2034, when all outstanding amounts are due and payable. At about the same time, Plaintiff made, executed and delivered to World a Deed of Trust (the "Deed of Trust") granting World a security interest in the Property at 66646 Saroni Drive, in Oakland, which is more fully described in the Deed of Trust, and not to exceed a sum certain. The Deed of Trust was recorded on about June 7, 2004.

7. On information and belief, on about December 31, 2007, World Savings Bank, FSB's charter and bylaws were amended to change its name to Wachovia Mortgage, FSB.

8. On or about November 1, 2009, on information and belief, Wachovia Mortgage FSB converted to a national bank with the name Wells Fargo Bank Southwest, National Association; effective November 1, 2009, Wells Fargo Bank Southwest, National Association merged with Wells Fargo Bank, National Association. Title of the Property was not changed to reflect this

change in ownership; thus, Wells is not the owner of the note secured by Plaintiff's property; World remains the owner of the note.

9. Plaintiff eventually was unable to meet the obligations under the terms of the loan.

10. Monthly payments were missed as the amount due continued to increase under the adjustable feature (ARM) of the subject note. Plaintiff was forced into bankruptcy.

11. Plaintiff did not understand this essential doubling of her monthly payments under the note. This hidden penalty substantially prejudiced Plaintiff's ability to meet the escalating obligations due under the note.

12. Eventually, after rejecting Plaintiff's 2016 request for loan modification, Wells placed Plaintiff into default. Plaintiff is unclear as to the exact date she was placed into default, but does know that Wells ultimately rejected her modification request, falsely stating on September 21, 2016, that "We are sending you a letter to inform you that we will no longer be considering your application for mortgage assistance. . . . [because] we have not received all of the required documents; therefore, we can no longer move forward with your application." Plaintiff provided everything to Wells during the modification process. Some items were sent several times because Wells denied receiving the materials. In addition, the reason Wells gave for rejecting the modification request just days before September 21, 2016, was that Plaintiff would be "unable to afford" the modified monthly loan payment – but Wells never informed Plaintiff what that amount would be, how that amount was determined, etc., despite several requests to specify that monthly amount and the basis(es) of the amount's determination.

13. On information and belief, Wells contends that the estimated payoff owing under the Note as of March 2017 is $1,038,074.16. Wells also claimed that as of April 18, 2017, the reinstatement amount was $481,883.68. Upon receiving this reinstatement quote only upon demand by Plaintiff, Plaintiff requested Wells provide an accounting with detailed breakdown of the reinstatement amount so Plaintiff could tender that amount to Wells before April 27, 2017.

14. Plaintiff first learned from a third-party mailer (advertisement) that there was a trustee sale set of the Property for April 27, 2017. The notice dd not originally come from Defendants.

15. Wells and/or Barrett have not posted notice of the trustee sale on the Property.

16. Wells and/or Barrett have not executed several of the documents pertaining to the Trustee sale.

17. With regard to a trustee sale, Barrett recorded a notice of default. This was before any substitution or assignment from World to Barrett. On information and belief, the Property has not been sold at trustee sale as of the dare of this filing.

18. On information and belief, on about April 11, 2016, Defendant Barrett caused to be recorded a substitution of trustee from Wells to Barrett, but the substitution did not involve World or Wachovia.

19. On information and belief, on about April 19, 2016, Defendant Barrett caused to be recorded notice of default, without a substitution from World or Wachovia, to Wells, and without recording a notice of default by the bona fide trustee. On information and belief, on about June 2, 2016, and again June 7, 2016, Barrett recorded cancellations of the default notice.

20. After the pre-textual and bizarre contradictory rejection of Plaintiff's request for home loan modification, on information and belief Barrett caused a notice of default to be recorded on about December 8, 2016, and notice of trustee sale on March 27, 2017. Trustee sale was set for April 27, 2017.

21. Plaintiff is informed that Defendants claim title to the Property as described above despite (or pursuant to) defective foreclosure notice and trustee sale. If the sale is eventually permitted, Plaintiff and her family (living with her at the Property are two of her children, ages 14 and 9, as well as her husband; two additional college-aged children reside part-time with Plaintiff at the Property) will be irreparably harmed.

22. Plaintiff demanded Defendants cease their conduct and that Defendants not carry through with the sale, but Defendants refuse to cease all unlawful activity. Plaintiff, without adequate remedy at law, will be forever harmed if the Property is in fact sold.

23. Defendants' continued and wrongful conduct will cause great and irreparable harm to Plaintiff; *e.g.*, she and her family will be evicted from their residence of almost 15 years, uprooted, and lose her hopes and dreams invested in the subject Property; and, *inter alia*, she

will unable to sell the home/property at true value (estimated at 1.5 million dollars).

24. Plaintiff is ignorant of the identities of Defendants DOES 1 though 40, and therefore sue such defendants as fictitiously named persons/entities, whose true identities and roles in the events which are the subject matter hereof, are presently unknown. Plaintiff will amend this complaint to identify fictitiously named Defendants and to set forth facts relating to each when same become known to Plaintiff. Plaintiff is informed and believes and thereon alleges that each DOE Defendant is legally responsible for events alleged herein which caused injury and damage to Plaintiff.

25. In doing the acts or omissions alleged, the defendants and each of them were acting in the course and scope of their employment/agency with their co-defendants where applicable.

26. In doing the acts or omissions alleged, each of the defendants acted as the agent, servant, employee, and/or in concert with each of the other Defendants herein.

FIRST CAUSE OF ACTION

California Homeowner Bill of Rights (California Civil Code §§ 2920-2967)

(As to All Defendants)

27. Plaintiff incorporates by reference all of the preceding paragraphs as though set forth fully herein.

28. Plaintiff is informed that on January 1, 2013, the California Homeowner Bill of Rights (CHBR) became law in California. Among other things, lenders, trustees, and mortgage servicers are restricted from advancing the foreclosure process where the homeowner is working on securing a loan modification. When a homeowner completes an application for loan modification, the foreclosure process is essentially paused until the complete application has been fully reviewed. Wells failed to abide by this requirement.

29. Under the CHBR, there was to be a guaranteed single point of contact. Homeowners are guaranteed a single point of contact while they navigate the system and try to keep their homes – a person or team at the bank who knows the facts of their case, has their paperwork and can get them a decision about their application for a loan modification. Wells failed in this

regard as well, as Plaintiff was passed between multiple persons and departments at Wells, during the initial modification process and the re-entry modification process in April 2017.

30. Also required is the verification of documents: Lenders that record and file multiple unverified documents will be subject to a civil penalty of up to $7,500 per loan.

31. Under the CHBR, Plaintiff has the right of enforceability. That is, borrowers have authority to seek redress of "material" violations of the new foreclosure process protections, also making injunctive relief available prior to a foreclosure sale (and recovery of damages available following a sale).

32. Under Civil Code section 2923.55(a), a "mortgage servicer, mortgagee, trustee, beneficiary, or authorized agent may not record a notice of default pursuant to Section 2924 until all of the following: . . . A notice of default recorded pursuant to Section 2924 shall include a declaration that the mortgage servicer has contacted the borrower, has tried with due diligence to contact the borrower as required by this section, or that no contact was required because the individual did not meet the definition of "borrower" pursuant to subdivision (c) of Section 2920.5." No such contact was made or attempted between September 21, 2016, and March 27, 2017.

33. In addition, the few communications from Wells are timed to arrive late. For example, a letter dated April 5, 2017, was not post-marked until April 10, 2017, and received by Plaintiff at her home only on April 15, 2017. This is the norm; that is, typical of Wells. Very few, if any, of the materials sent by Wells are timed to arrive in a timely manner. Almost without exception, these important documents vital to Plaintiff's effort to save her home are post-marked four-five days after each is apparently created, and then each arrives an additional four-five days after being post-marked.

34. Plaintiff therefor was and is damaged in an amount according to proof, and seeks injunctive relief under the CHBR to prevent the loss of her home.

WHEREFORE, Plaintiff prays for relief as set forth below.

SECOND CAUSE OF ACTION

Civil Code Sections 2924-2924c

(As to All Defendants)

35. Plaintiff re-alleges and incorporates by reference all preceding paragraphs.

36. In California, foreclosure sales can be postponed for up to one year under California Civil Code section 2924g (c) (2).

37. Defendants and each of them, initially gave notice of the intent to foreclose and the trustee sale far more than one year before December 2016.

38. Plaintiff never waived her rights under section 2924g(c)(2). While a bank may claim waiver, the requisite reviews were never given or allowed by the bank. Any such waiver was unconscionable and/or procured while Plaintiff was under extreme and severe duress. Each and every ostensible waiver is invalid.

39. The notice of default is based on a non-existent series of transactions that render the notice and all subsequent efforts to sell this house through trustee sale void.

40. Plaintiff thus suffered damage, according to proof.

THIRD CAUSE OF ACTION

California Civil Code section 2924.9

(As to all defendants)

41. Plaintiff re-alleges and incorporates by reference all preceding paragraphs.

42. Within five days of the recording of a notice of default, the mortgage servicer that offers foreclosure prevention alternatives must send a written notice to the borrower informing the borrower: 1) that the borrower may be evaluated for a foreclosure prevention alternative or alternatives; 2) whether an application is required in order to be considered for a foreclosure prevention alternative; and 3) the method by which a borrower may obtain an application for a foreclosure prevention alternative. Civil Code §2924.9(a).

43. Defendants failed to send the written notice within five days.

44. Plaintiff thus suffered damage, according to proof.

FOURTH CAUSE OF ACTION

California Civil Code section 2924c – Reinstatement

(As to all defendants)

45. Plaintiff re-alleges and incorporates by reference all preceding paragraphs.

46. In spite of the defects in assignment and/or defects in title to the deed of trust, defective substitution, failures of notice, and related problems with the Wells/Barrett process of foreclosure, Plaintiff has indicated she is willing and able to reinstate the loan, having on deposit an amount in excess of the reinstatement amount of $481,883.68.

47. On March 16, 2017, Wells apparently created a letter indicating to Plaintiff that she was receiving $1,401.49 as a refund pursuant to a class action settlement. This was the "result of late or missed payment change notice. . . ." That letter was post-marked March 20, 2017, and only received by Plaintiff on March 27, 2017, more than ten days after it was created.

48. On information and belief, on November 5, 2015, the Department of Justice's U.S. Trustee Program entered into a Settlement Agreement with Wells relating to Wells' mortgage servicing practices in Chapter 13 consumer bankruptcy cases (recall Plaintiff was forced into bankruptcy protection by Wells in 2010). In the Settlement Agreement, Wells acknowledged it failed to file timely more than 100,000 payment change notices ("PCNs") and failed to perform timely more than 18,000 escrow analyses in cases involving nearly 68,000 accounts of homeowners in bankruptcy between December 1, 2011, and March 15, 2015. Plaintiff fell into that class of homeowners.

49. Thus, in connection with the request for the reinstatement amount as well as the failures by Wells to which it admitted on November 5, 2015, Plaintiff requested an accounting of the $481,883.68 which Wells contends is the reinstatement amount. Wells has refused and/or failed to provide that detailed accounting.

50. Plaintiff cannot simply turn over $481,883.68 without a proper accounting of the fees, expenses, late fees, costs, and related charges, thus suffered damage, according to proof.

///

FOURTH CAUSE OF ACTION

Breach of the Implied Covenant of Good Faith and Fair Dealing

(As to All Defendants)

51. Plaintiff re-alleges and incorporates by reference all preceding paragraphs.

52. As a result of the relationship between Plaintiff and Defendants, and each of them, the expressed and implied promises made in connection with that relationship, and the acts, conduct, and communications resulting in these implied promises, said Defendants promised to act in good faith toward and deal fairly with Plaintiffs requiring, *inter alia*, the following:

1. Each party in the relationship act with good faith toward the other concerning all matters arising from the relationship;
2. Each party in the relationship act with fairness toward the other concerning all matters arising from the relationship;
3. No party take any action to unfairly prevent any other party to the relationship from obtaining the benefits of the relationship;
4. Defendants, and each of them, would comply with their own promises, representations, and developed customs in dealing with Plaintiff;
5. Defendants, and each of them, would not misappropriate or subvert Plaintiff's expectations in the agreement; and,
6. Defendants, and each of them, would give Plaintiff's interests as much consideration as they gave their own.

53. Defendants' conduct was wrongful, in bad faith, and was a violation of said Defendants' legal duties. For example, Defendants took advantage of the fact that Plaintiff was trying to save her family home and misled Plaintiff about the value of said home during the 2016 modification process. A continuing and special relationship between Wells and Plaintiff existed, and continues to exist through the present, by virtue of ongoing negotiations, and agreement by Wells to consider modifying the loan(s) secured by the subject real property. In connection with Wells agreement to consider a loan modification, Wells requested multiple times the same

documents, fraudulently claimed not to have received certain documents, sought the same information on repeated occasions after the information had been produced, and engaged in conduct designed to cause, and causing, ongoing hardship and distress. Plaintiff further alleges Defendants breached the covenant of good faith and fair dealing when they acted as alleged.

54. The breach of the covenant of good faith and fair dealing by Defendants, and each of them, was a substantial factor in causing damage to Plaintiff. As a direct, legal, and proximate result of said breaches, Plaintiff lost substantial benefits in an amount to be proven.

WHEREFORE, Plaintiff prays for relief and judgment as set forth below.

FIFTH CAUSE OF ACTION

Unfair Business Practices

(As to All Defendants)

55. Plaintiff re-alleges and incorporates by reference all preceding paragraphs.

56. Prior to entering the agreements, or at the time the agreements were entered, Plaintiff paid what was required under the terms of the agreements; or, her complete performance was excused through duress, impracticability, frustration, conduct by Defendants, and/or other factors. A continuing and special relationship between Wells and Plaintiff existed, and continues to exist through the present, by virtue of the subsequent short sale agreements, ongoing negotiations, and agreement by Wells to consider modifying the loan(s) secured by the subject real property. In connection with Wells' agreement to consider a loan modification, Wells requested multiple times the same documents, fraudulently claimed not to have received certain documents, sought the same information on repeated occasions after the information had been produced, and engaged in conduct designed to cause, and causing, ongoing hardship and distress.

57. Plaintiff is informed and believes that Defendants, and each of them, did possess and did use Plaintiff's money. In failing as described above, said Defendants and each of them ths have engaged in unfair business practices withing the meaning of §17200, *et seq.*, thereby entitling Plaintiff to injunctive relief and restitution under §17203. Defendants took advantage of

Plaintiff and forced Plaintiffs into usurious and/or unfair – predatory – agreements.

58. Plaintiff is informed and believes that the tortious conduct described herein by Defendants, and each of them, was known at the time by these defendants to be willful and intentional.

WHEREFORE, Plaintiff prays for relief and judgment as set forth below.

SIXTH CAUSE OF ACTION

Negligence

(As to All Defendants)

59. Plaintiff re-alleges and incorporates by reference all preceding paragraphs.

60. At all relevant times, Defendants, and each of them, were required to keep their clients or credit customers reasonably informed about significant developments relating to their loans and to comply promptly with reasonable requests for information. They were required to employ means consistent with the truth, and were prohibited from seeking to mislead Plaintiff through artifice or false statement. Defendants further refused to communicate with Plaintiffs at times, despite repeated efforts to communicate concerning many important facets of the transactions between the parties. A continuing and special relationship between Wells and Plaintiff existed, and continues to exist through the present, by virtue of the subsequent short sale agreements, ongoing negotiations, and agreement by Wells to consider modifying the loan(s) secured by the subject real property. In connection with Wells agreement to consider a loan modification, Wells requested multiple times the same documents, fraudulently claimed not to have received certain documents, sought the same information on repeated occasions after the information had been produced, and engaged in conduct designed to cause, and causing, ongoing hardship and distress. Defendants took advantage of Plaintiff.

61. Defendants, and each of them, were required to act competently.

62. Defendants, and each of them, had a duty to act in a reasonable and competent fashion. In spite of duties owed to Plaintiff, these Defendants acted recklessly and/or intentionally and/or negligently and failed to use that degree of care which reasonable and

competent professionals would have used in like or similar circumstances, thus resulting in the injuries and damages alleged herein. In doing the acts alleged above and in other ways, Defendants, and each of them, violated standards and laws that govern these transactions.

63. As a direct, legal, and proximate result of the above-mentioned conduct, Plaintiff was damaged, in an amount to be proven at trial.

64. The conduct by Defendants, and each of them, as described above was oppressive, fraudulent, and malicious, as set forth above.

WHEREFORE, Plaintiff prays for relief and judgment as set forth below.

SEVENTH CAUSE OF ACTION

Intentional Infliction of Emotional Distress

(As to All Defendants)

65. Plaintiff re-alleges and incorporates by reference all preceding paragraphs.

66. Conduct by Defendants' employees/owners, described above, was outrageous.

67. Defendants intended to cause emotional distress or acted with reckless disregard of the probability that Plaintiff would suffer emotional distress, knowing Plaintiff was fighting for her family home and financial life.

68. Defendants' conduct, directed at Plaintiff, was of such substantial quantity and enduring quantity that no reasonable person in a civilized society should or would be expected to endure the severe emotional distress caused thereby.

69. Defendants' conduct described above was with reckless disregard that Plaintiff would suffer severe emotional distress, or was in fact intended to cause severe emotional distress. This conduct was outrageous, particularly in view of the circumstances and other factors.

70. Plaintiff, after she surrendered the bankruptcy protection, was at the mercy of Defendants, and these defendants knew or should have known his conduct likely would result in harm to Plaintiff in the form of emotional distress.

71. Plaintiff actually therefore suffered severe emotional distress, caused by the conduct described above.

72. Defendants' conduct was a substantial factor in causing Plaintiffs' severe emotional distress.

WHEREFORE, Plaintiffs pray for relief and judgment as set forth below.

EIGHTH CAUSE OF ACTION

QUIET TITLE

(As to All Defendants)

73. Plaintiff incorporates all preceding paragraphs herein.

74. Plaintiff seeks to quiet title against the claims of defendants as follows: the claims of defendants are without any right whatever and such defendants have no right , title, estate, lien, or interest whatever in the above-described property or any part thereof. Wells is without title in that its name has not been recorded as a successor to World or Wachovia, the deed of trust has not been properly assigned, and the Note remains payable only to World. Barrett cannot have any interest in the Property for many reasons, including but not limited to its status as a non-existent entity under California law and its rights, if any, derive from Wells' defective claims.

75. Plaintiff seeks to quiet title as of the date this complaint is filed with the court.

WHEREFORE, Plaintiff prays for relief as follows:

PRAYER

a. Compensatory damages according to proof;

b. General damages according to proof;

c. Punitive and exemplary damages;

d. For costs of suit and for reasonable attorneys' fees under, California Civil Code section 1717;

e. For pre-judgment and post-judgment interest;

f. For an order requiring Defendants, all persons acting on behalf of Defendants, and each of them, to do the following:

1. To disgorge all profits made in this transaction and in similar transactions;
2. To return monies taken from Plaintiff during these transactions;

3. To return the parties to the positions which existed in 2007, before the transactions took place;

4. To reverse all forfeiture activity, including without limitation the notice of default and pending trustee sale;

5. To cease further harassment of Plaintiff through calls, drive-by showings, letters, threats, and similar activity;

g. For a declaration from this Court that the series of contracts recounted above are unconscionable, unlawful, adhesive, and otherwise unenforceable;

h. For a temporary restraining order and preliminary injunction, prohibiting and/or enjoining the April 27, 2017, trustee sale of the Property at 6646 Saroni Drive, in Oakland California, and preventing harassment, and other described activity committed by the defendants;

I. For treble damages and attorneys' fees under the CHBR;

j. For a judgment that Plaintiff is the owner in fee simple of the property and that defendants have no interest in the property adverse to Plaintiff; and,

k. Such other and further relief as the Court deems just and proper.

Date: April 21, 2017

By: Russell A. Robinson
Law Office of Russell A. Robinson
Counsel for Plaintiff
ÉQUAAN D. SMITH

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury of this matter, as is her right.

Date: April 21, 2017

By: Russell A. Robinson
Law Office of Russell A. Robinson
Counsel for Plaintiff
ÉQUAAN D. SMITH

VERIFICATION

I, Équaan D. Smith, am Plaintiff herein.

I certify that I have reviewed the accompanying Verified Complaint for Damages and Injunctive Relief and aver that the facts stated therein are true and correct; as to facts stated as based on information and belief, I aver that these facts are believed to be true.

I, Équaan D. Smith, hereby declare and aver under penalty of perjury and under the laws of the State of California that the above is true and correct.

Date: 4-20, 2017

Équaan D. Smith

RFJN #2

14980472

Russell A. Robinson, 163937
Law Office of Russell A. Robinson
345 Grove Street, First Floor
San Francisco CA 94102
Telephone: 415.861.4416
Facsimile: 415.431.4526
e-mail: rlaw345@gmail.com

Counsel for Plaintiff
ÉQUAAN D. SMITH

FILED
ALAMEDA COUNTY
APR 2 5 2017
By [signature]

RECEIVED
ALAMEDA COUNTY
APR 26 2017
CLERK OF THE SUPERIOR COURT
By Esther Coleman Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA – UNLIMITED CIVIL JURISDICTION

ÉQUAAN D. SMITH, Plaintiff, v. BARRETT, DAFFIN, FRAPPIER, TREDER & WEISS, LLP; WELLS FARGO BANK, NA, successor to WACHOVIA MORTGAGE FSB, formerly known as WORLD SAVINGS BANK, FSB; and, DOES 1-40, Defendants.	) No. RG-17-857691) **~~[Proposed]~~ ORDER GRANTING TEMPORARY RESTRAINING ORDER PREVENTING SALE OF PLAINTIFF'S HOME AND ORDER TO SHOW CAUSE RE: PRELIMINARY INJUNCTION**) Property Address:) 6646 Saroni Drive) Oakland CA 94611

The application by Plaintiff ÉQUAAN D. SMITH, having been considered by the Court in this matter, it is hereby ordered as follows:

The application is **GRANTED.**

Defendants BARRETT, DAFFIN, FRAPPIER, TREDER & WEISS, LLP, and WELLS FARGO BANK, NA, and all other persons/entities acting on behalf of, in concert with, at the behest of, or through, said defendants are hereby enjoined, restrained, and otherwise prohibited from selling through trustee sale or other means the real property located at 6646 Saroni Drive in Oakland, California. A legal description of the real property is attached hereto and incorporated into this Order.

The Court further orders Defendants to show cause why a preliminary injunction should not issue enjoining, restraining, and otherwise prohibiting Defendants and all other persons/entities acting on behalf of, in concert with, at the behest of, or through, said defendants from selling through trustee sale or other means the real property located at 6646 Saroni Drive in Oakland, California, pending trial of this matter.

All papers in support of the request preliminary injunction shall be filed and served personally on or before MAY 1, 2017. All opposition papers shall be filed and served personally on or before MAY 10, 2017. All reply papers shall be filed and served personally on or before MAY 12, 2017. Parties and counsel are reminded of their obligations to lodge courtesy copies with Department 511 in a timely manner.

Hearing of the request for preliminary injunction shall be on MAY 17, 2017, in Department 511 of this Court, at 9 a.m.

ALL SERVICE WILL BE ELECTRONIC

Until said hearing, the subject real property at 6646 Saroni Drive in Oakland, California, shall not be sold or otherwise transferred without express written agreement of the parties or further order of the Court.

IT IS SO ORDERED.

Date: April 26, 2017

Judge of the California Superior Court
County of Alameda
Kimberly Colwell

EXHIBIT "ONE"

Lot 293, according to the map of Montclair Highlands filed September 11, 1925, in the office of the County Recorder of Alameda County and of Record in Map Book 4, pages 88 and 89.

Assessor's Parcel No: 048E-7346-025

RFJN #3

F

State of California
Secretary of State

Statement of Information
(Foreign Corporation)
FEES (Filing and Disclosure): $25.00.
If this is an amendment, see instructions.
IMPORTANT – READ INSTRUCTIONS BEFORE COMPLETING THIS FORM

F624445
FILED
In the office of the Secretary of State
of the State of California

MAY-26 2015

1. CORPORATE NAME
WELLS FARGO BANK, NATIONAL ASSOCIATION

2. CALIFORNIA CORPORATE NUMBER C2649647

This Space for Filing Use Only

No Change Statement (Not applicable if agent address of record is a P.O. Box address. See instructions.)

3. **If there have been any changes to the information contained in the last Statement of Information filed with the California Secretary of State, or no statement of information has been previously filed, this form must be completed in its entirety.**
☐ If there has been no change in any of the information contained in the last Statement of Information filed with the California Secretary of State, check the box and proceed to **Item 13.**

Complete Addresses for the Following (Do not abbreviate the name of the city. Items 4 and 5 cannot be P.O. Boxes.)

4. STREET ADDRESS OF PRINCIPAL EXECUTIVE OFFICE — CITY — STATE — ZIP CODE
101 N PHILLIPS AVENUE, SIOUX FALLS, SD 57104

5. STREET ADDRESS OF PRINCIPAL BUSINESS OFFICE IN CALIFORNIA, IF ANY — CITY — STATE — ZIP CODE

6. MAILING ADDRESS OF THE CORPORATION, IF DIFFERENT THAN ITEM 4 — CITY — STATE — ZIP CODE

Names and Complete Addresses of the Following Officers (The corporation must list these three officers. A comparable title for the specific officer may be added; however, the preprinted titles on this form must not be altered.)

7. CHIEF EXECUTIVE OFFICER/ — ADDRESS — CITY — STATE — ZIP CODE
JOHN G. STUMPF 420 MONTGOMERY STREET, SAN FRANCISCO, CA 94104

8. SECRETARY — ADDRESS — CITY — STATE — ZIP CODE
KEITH M. JACKSON 45 FREMONT STREET 27TH FLOOR, SAN FRANCISCO, CA 94105

9. CHIEF FINANCIAL OFFICER/ — ADDRESS — CITY — STATE — ZIP CODE
JOHN R. SHREWSBERRY 420 MONTGOMERY STREET, SAN FRANCISCO, CA 94104

Agent for Service of Process If the agent is an individual, the agent must reside in California and Item 11 must be completed with a California street address, a P.O. Box address is not acceptable. If the agent is another corporation, the agent must have on file with the California Secretary of State a certificate pursuant to California Corporations Code section 1505 and Item 11 must be left blank.

10. NAME OF AGENT FOR SERVICE OF PROCESS
CORPORATION SERVICE COMPANY WHICH WILL DO BUSINESS IN CALIFORNIA AS CSC - LAWYERS INCORPORATING SERVICE

11. STREET ADDRESS OF AGENT FOR SERVICE OF PROCESS IN CALIFORNIA, **IF AN INDIVIDUAL** — CITY — STATE — ZIP CODE

Type of Business

12. DESCRIBE THE TYPE OF BUSINESS OF THE CORPORATION
FINANCE

13. THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT.

05/26/2015	KEITH M. JACKSON	AUTHORIZED PERSON	
DATE	TYPE/PRINT NAME OF PERSON COMPLETING FORM	TITLE	SIGNATURE

SI-350 (REV 01/2013) APPROVED BY SECRETARY OF STATE

Ph: 515-512-5723
Dianna.L.Peatrowsky@Wellsfargo<mailto:Dianna.L.Peatrowsky@Wellsfargo>.co
m

DSM Servicing Mail Support
X2302-04E
MAY 01 2017
#22

DSM Servicing Mail Support
X2302-04E
MAY 01 2017
#47

RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:

Russell A. Robinson, 163937
Law Office of Russell A. Robinson
345 Grove Street, First Floor
San Francisco CA 94102
Telephone: 415.861.4416
Facsimile: 415.431.4526
rlaw345@gmail.com

Counsel for Plaintiff
ÉQUAAN D. SMITH

7-0483719977

----- SPACE ABOVE THIS LINE FOR RECORDER'S USE -----

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

ÉQUAAN D. SMITH, Plaintiff, v. BARRETT, DAFFIN, FRAPPIER, TREDER & WEISS, LLP; WELLS FARGO BANK, NA, et al., Defendants.	**NO. RG-17-857691** **NOTICE OF PENDENCY OF ACTION** [CCP Section 405.20]

Notice of Pendency of Action

Notice is given that the above-entitled action was filed in the above-entitled court on April 24, 2017, by Plaintiff ÉQUAAN D. SMITH, against Defendants BARRETT, DAFFIN, FRAPPIER, TREDER & WEISS, LLP; WELLS FARGO BANK, NA, et al.

The action may affect title to specific real property identified in the attached legal description of said property.

The specific real property affected by the action is located in Alameda County, California, and is described as follows: A detached, single family residence located in the State of CA, City of Oakland, County of Alameda, with a situs address of 6646 Saroni Drive, Oakland CA 94611, Assessor's Parcel Number 048E-7346-025.

A complete legal description is attached as Exhibit One.

The Court's April 26, 2017, Order Granting a Temporary Restraining Order, prohibiting trustee sale, etc., is attached as Exhibit Two.

Date: April 26, 2017

By: Russell A. Robinson
Law Office of Russell A. Robinson
Counsel for Plaintiff
ÉQUAAN D. SMITH

CERTIFICATE OF SERVICE

At the time of service, I was over the age of 18 years and not a party to this action. My business address was 345 Grove Street, First Floor, San Francisco California 94102. On April 26, 2017, I served the following document(s):

NOTICE OF PENDENCY OF ACTION

I certify that all parties hereto shall be, and are hereby, served on counsel of record, as indicated below, through the United States Postal Service, with postage pre-paid thereon, and addressed as follows:

I certify that all parties hereto shall be, and are hereby, served on counsel of record, as indicated below, and as follows:

~~through facsimile transmission to the number designated below,~~
through the United States Postal Service, first class, with postage pre-paid thereon, and addressed as shown below,
~~through personal delivery at the address specified below~~, and
~~through e-mail, pursuant to request/agreement of counsel, as follows:~~

Wells Fargo Bank, NA
Home Mortgage
P.O. Box 10368
Des Moines IA 50306
FAX: 866.590.8910
[Defendant]

Barrett Daffin Frappier Treder & Weiss
20955 Pathfinder Rd Ste 300
Diamond Bar, CA 91765
TEL: (626) 915-5714
FAX: (626) 915-0289
[Defendant]

I hereby declare under penalty of perjury and under the laws of the State of California that the above is true and correct.

Dated: April 26, 2017

R. Robinson

Benoit, et al., v. Martinis, et al. (NO. RG10-545818) - 3 - P002.POS

EXHIBIT "ONE"

Lot 293, according to the map of Montclair Highlands filed September 11, 1925, in the office of the County Recorder of Alameda County and of Record in Map Book 4, pages 88 and 89.

Assessor's Parcel No: 048E-7346-028

14980472

Russell A. Robinson, 163937
Law Office of Russell A. Robinson
345 Grove Street, First Floor
San Francisco CA 94102
Telephone: 415.861.4416
Facsimile: 415.431.4526
e-mail: rlaw345@gmail.com

Counsel for Plaintiff
ÉQUAAN D. SMITH

RECEIVED
ALAMEDA COUNTY
APR 26 2017
CLERK OF THE SUPERIOR COURT
By ____________ Deputy

FILED
ALAMEDA COUNTY
APR 2 5 2017
By ____________

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA – UNLIMITED CIVIL JURISDICTION

ÉQUAAN D. SMITH, Plaintiff, v. BARRETT, DAFFIN, FRAPPIER, TREDER & WEISS, LLP; WELLS FARGO BANK, NA, successor to WACHOVIA MORTGAGE FSB, formerly known as WORLD SAVINGS BANK, FSB; and, DOES 1-40, Defendants.	No. RG-17-857691 ~~[Proposed]~~ ORDER GRANTING TEMPORARY RESTRAINING ORDER PREVENTING SALE OF PLAINTIFF'S HOME AND ORDER TO SHOW CAUSE RE: PRELIMINARY INJUNCTION Property Address: 6646 Saroni Drive Oakland CA 94611

The application by Plaintiff ÉQUAAN D. SMITH, having been considered by the Court in this matter, it is hereby ordered as follows:

The application is **GRANTED.**

Defendants BARRETT, DAFFIN, FRAPPIER, TREDER & WEISS, LLP, and WELLS FARGO BANK, NA, and all other persons/entities acting on behalf of, in concert with, at the behest of, or through, said defendants are hereby enjoined, restrained, and otherwise prohibited from selling through trustee sale or other means the real property located at 6646 Saroni Drive in Oakland, California. A legal description of the real property is attached hereto and incorporated into this Order.

The Court further orders Defendants to show cause why a preliminary injunction should not issue enjoining, restraining, and otherwise prohibiting Defendants and all other persons/entities acting on behalf of, in concert with, at the behest of, or through, said defendants from selling through trustee sale or other means the real property located at 6646 Saroni Drive in Oakland, California, pending trial of this matter.

All papers in support of the request preliminary injunction shall be filed and served personally on or before May 1, 2017. All opposition papers shall be filed and served personally on or before May 10, 2017. All reply papers shall be filed and served personally on or before May 12, 2017. Parties and counsel are reminded of their obligations to lodge courtesy copies with Department 511 in a timely manner.

Hearing of the request for preliminary injunction shall be on May 17 2017 in Department 511 of this Court, at 9 a.m.
All service will be electronic

Until said hearing, the subject real property at 6646 Saroni Drive in Oakland, California, shall not be sold or otherwise transferred without express written agreement of the parties or further order of the Court.

IT IS SO ORDERED.

Date: April 26, 2017

Judge of the California Superior Court
County of Alameda
Kimberly Colwell

EXHIBIT "ONE"

Lot 293, according to the map of Montclair Highlands filed September 11, 1926, in the office of the County Recorder of Alameda County and of Record in Map Book 4, pages 88 and 89.

Assessor's Parcel No: 0488-7346-025

EXHIBIT C

ALAMEDA COUNTY, CA
acgov.org

Skip County Header

ONLINE SERVICES

Assessor's Office | Treasurer-Tax Collector | New Query

PROPERTY ASSESSMENT INFORMATION ASSESSOR'S OFFICE

2016 - 2017 Assessment Information

Parcel Number:	48E-7346-25
Assessor's Map: (Map image is not to scale)	Maps... Disclaimer
Use Code:	1100
Description	Single family residential homes used as such
Land	$270,225.00
Improvements	$630,525.00
Fixtures	0
Household Personal Property	0
Business Personal Property	0
Total Taxable Value	$900,750.00
Exemptions	
Homeowner	$7,000.00
Other	0
Total Net Taxable Value	$893,750.00

Additional Assessment Information | Property Tax Information

Adobe Acrobat Reader is required to view the maps. Click here to download.

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EXHIBIT C to Notice of Removal
Page 114

EXHIBIT D

Office of Thrift Supervision
Department of the Treasury

Nicholas J. Dyer
Assistant Regional Director

Pacific Plaza, 2001 Junipero Serra Boulevard, Suite 650, Daly City, CA 94014-1976
P.O. Box 7165, San Francisco, CA 94120-7165 • Telephone: (650) 746-7025 • Fax: (650) 746-7001

November 19, 2007

John A. Stoker, Esq.
Vice President and Assistant General Counsel
Wachovia Corporation
Legal Division – NCO630
One Wachovia Center
301 South Charlotte Street
Charlotte, NC 28288

Re: World Savings Bank, FSB, Oakland, California
Notice of Amendment of Charter and Bylaws

Dear Mr. Stoker:

This is in response to your letter, dated November 8, 2007, with enclosures, which you filed with the Office of Thrift Supervision (OTS) on behalf of World Savings Bank, FSB to amend the savings bank's charter and bylaws to change its name to Wachovia Mortgage, FSB and reflect a change in the location of its home office. The new home office address is 6825 Aliante Parkway, North Las Vegas, Nevada.

The institution met the requirements of 12 C.F.R. §§ 552.4(b) and 552.5(b)(2), and the proposed amendments will be effective December 31, 2007, as set forth in the Board of Directors' resolution adopting the changes to the charter and bylaws. The filing also met the requirement of 12 C.F.R. § 545.91(b) that the savings bank notify the OTS if there is a change in the permanent address of its home office.

Please feel free to contact me at (650) 746-7025 if there are any questions.

Sincerely,

Nicholas J. Dyer

Nicholas J. Dyer
Assistant Regional Director

cc: Robert Burns, FDIC - Atlanta

EXHIBIT E

Comptroller of the Currency
Administrator of National Banks

Large Bank Licensing

November 1, 2009

Mr. James E. Hanson
Vice President
Wells Fargo Bank, National Association
90 South Seventh Street
Minneapolis, MN 55479

Re: Application to convert Wachovia Mortgage, FSB, North Las Vegas, Nevada to a national bank and application to merge the converted bank with and into Wells Fargo Bank, National Association, Sioux Falls, South Dakota
Application Control Numbers: 2009-ML-01-0007 and 2009-ML-02-0010

Dear Mr. Hanson:

This letter is the official certification of the Comptroller of the Currency (OCC) of the conversion of Wachovia Mortgage FSB, North Las Vegas, Nevada to a national bank with the name Wells Fargo Bank Southwest, National Association, effective November 1, 2009. This is also the official certification to merge Wells Fargo Bank Southwest, National Association with and into Wells Fargo Bank, National Association, Sioux Falls, South Dakota, effective November 1, 2009.

If you have questions regarding this letter, please contact me at (202) 874-5294 or by email at: Stephen.Lybarger@occ.treas.gov . Please reference the application control number or numbers in any correspondence.

Sincerely,

Stephen A. Lybarger

Stephen A. Lybarger
Large Bank Licensing Lead Expert

EXHIBIT F

Comptroller of the Currency
Administrator of National Banks

Washington, DC 20219

CERTIFIED ARTICLES OF ASSOCIATION

I, John Walsh, Acting Comptroller of the Currency, do hereby certify that the document hereto attached is a true and correct copy, as recorded in the Office of the Comptroller of the Currency, of the currently effective Articles of Association for "Wells Fargo Bank, National Association," Sioux Falls, South Dakota (Charter No. 1).

CURRENCY BUREAU
Comptroller
OF THE
CURRENCY
TREASURY DEPARTMENT

IN TESTIMONY WHEREOF, today, March 27, 2012, I have hereunto subscribed my name and caused my seal of office to be affixed to these presents at the U.S. Department of the Treasury, in the City of Washington, District of Columbia.

Acting Comptroller of the Currency

ARTICLES OF ASSOCIATION
OF
WELLS FARGO BANK, NATIONAL ASSOCIATION

ARTICLE I - NAME

The title of this Association shall be Wells Fargo Bank, National Association. The Association may also use the abbreviation Wells Fargo Bank, N.A.

ARTICLE II - OFFICES

1. Main Office. The main office of this Association shall be in the City of Sioux Falls, County of Minnehaha, State of South Dakota. The Board of Directors shall have the power to change the location of the main office to any other place within the limits of the City of Sioux Falls, without the approval of the shareholders but subject to the approval of the Comptroller of the Currency.

2. Branch Offices. The Board of Directors shall have the power to establish or change the location of any branch or branches of this Association to any other location, without the approval of the shareholders but subject to the approval of the Comptroller of the Currency.

3. Conduct of Business. The general business of the Association shall be conducted at its main office and its branches.

ARTICLE III - BOARD OF DIRECTORS

1. Number. The Board of Directors of this Association shall consist of not less than five nor more than twenty-five persons, the exact number to be fixed and determined from time to time by resolution of a majority of the full Board of Directors or by resolution of the shareholders at any annual or special meeting thereof.

2. Qualification. Each director, during the full term of his or her directorship, shall own a minimum of $1,000 par value of stock of this Association or an equivalent interest, as determined by the Comptroller of the Currency, in any company which has control over this Association within the meaning of Section 2 of the Bank Holding Company Act of 1956.

3. Vacancy. The Board of Directors, by the vote of a majority of the full Board, may, between annual meetings of shareholders, fill vacancies created by the death, incapacity or resignation of any director and by the vote of a majority of the full Board may also, between annual meetings of shareholders, increase the membership of the Board by not more than four members and by like vote appoint qualified persons to fill the vacancies created thereby; provided, however, that at no time shall there be more than twenty-five directors of this Association; and provided further, however, that not more than two members may be added to the Board of Directors in the event that the total number of directors last elected by shareholders was fifteen or less.

4. Appointment of Officers. The Board of Directors shall appoint one of its members President of this Association, who shall act as Chairman of the Board, unless the Board appoints another director to act as Chairman. In the event the Board of Directors shall appoint a President and a Chairman, the Board shall designate which person shall act as the chief executive officer of this Association. The Board of Directors shall have the power to appoint one or more Vice Presidents and to appoint a Cashier and such other officers and employees as may be required to transact the business of this Association.

5. Powers. The Board of Directors shall have the power to define the duties of the officers and employees of this Association; to fix the salaries to be paid to them; to dismiss them; to require bonds from them and to fix the penalty thereof; to regulate the manner in which the increase of the capital of this Association shall be made; to manage and administer the business and affairs of this Association; to make all Bylaws that it may be lawful for them to make; and generally to do and perform all acts that it may be legal for a Board of Directors to do and perform.

ARTICLE IV - MEETINGS OF SHAREHOLDERS

1. Annual Meeting. The annual meeting of the shareholders for the election of directors and the transaction of whatever other business may be brought before said meeting shall be held at the main office, or such other place as the Board of Directors may designate, on the day of each year specified therefor in the Bylaws, but if no election is held on that day, it may be held on any subsequent day according to the provisions of law; and all elections shall be held according to such lawful regulations as may be prescribed by the Board of Directors.

2. Special Meetings. The Board of Directors, the Chairman, the President, or any one or more shareholders owning, in the aggregate, not less than 25 percent of the stock of this Association, may call a special meeting of shareholders at any time.

3. Notice of Meetings. Unless otherwise provided by the laws of the United States, a notice of the time, place, and purpose of every annual and special meeting of the shareholders shall be given by first-class mail, postage prepaid, mailed at least ten days prior to the date of such meeting to each shareholder of record at his or her address as shown upon the books of this Association.

4 Written Consents. Any action required or permitted to be taken at an annual or special meeting of the shareholders of the Association may be taken without prior written notice and without any meeting if such action is taken by written action, containing a waiver of notice, signed by all of the shareholders entitled to vote on that action.

ARTICLE V - CAPITAL

1. Capitalization. The amount of authorized capital stock of this Association shall be $1,122,000,000, divided into 112,200,000 shares of common stock of the par value of Ten Dollars ($10.00) each; but said capital stock may be increased or decreased from time to time, in accordance with the provisions of the laws of the United States.

2. Voting Rights. Each holder of common stock of the Association shall be entitled to vote on all matters, one vote for each share of common stock held by such holder. No holder of shares of the capital stock of any class of this Association shall have any pre-emptive or preferential right of subscription to any shares of any class of stock of this Association, whether now or hereafter authorized, or to any obligations convertible into stock of this Association, issued or sold, nor any right of subscription to any thereof other than such, if any, as the Board of Directors, in its discretion, may from time to time determine and at such price as the Board of Directors may from time to time fix.

3. Debt Obligations. The Association, at any time and from time to time, may authorize and issue debt obligations, whether or nor subordinated, without the approval of the shareholders.

ARTICLE VI - PERPETUAL EXISTENCE

The corporate existence of this Association shall continue until terminated in accordance with the laws of the United States.

ARTICLE VII - INDEMNIFICATION

To the extent permitted by 12 CFR 7.2014 and consistent with the requirements of 12 USC 1828(k) and the implementing regulations thereunder:

(a) Elimination of Certain Liability of Directors. A director of the Association shall not be personally liable to the Association or its shareholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the Association or its shareholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the Delaware General Corporation Law, or (iv) for any transaction from which the director derived an improper personal benefit.

(b)(1) Right to Indemnification. Each person who was or is made a party or is threatened to be made a party to or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "proceeding"), by reason of the fact that he or she, or a person of whom he or she is the legal representative, is or was a director or officer of the Association or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, whether the basis of such proceeding is alleged action or inaction in an official capacity as a director, officer, employee, or agent or in any other capacity while serving as a director, officer, employee or agent, shall be indemnified and held harmless by the Association to the fullest extent authorized by the Delaware General Corporation Law, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Association to provide broader indemnification rights than said law permitted the Association to provide prior to such amendment), against all expense, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such person in connection therewith and such indemnification shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of his or her heirs, executors and administrators; provided, however, that the Association shall indemnify any such person seeking indemnification in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the Board of Directors of the Association. The right to indemnification conferred in this paragraph (b) shall be a contract right and shall include the right to be paid by the Association the expenses incurred in defending any such proceeding in advance of its final disposition; provided, however, that, if the Delaware General Corporation Law requires, the payment of such expenses incurred by a director of officer in his or her capacity as a director or officer (and not in any other capacity in which service was or is rendered by such person while a director or officer, including, without limitation, service to an employee benefit plan) in advance of the final disposition of a proceeding, shall be made only upon delivery to the Association of an undertaking, by or on behalf of such director or officer, to repay all amounts so advanced if it shall ultimately be determined that such director of officer is not entitled to be indemnified under this paragraph (b) or otherwise. The Association may, by action of its Board of Directors, provide indemnification to employees and agents of the Association with the same scope and effect as the foregoing indemnification of directors and officers.

(2) Non-Exclusivity of Rights. The right to indemnification and the payment of expenses incurred in defending a proceeding in advance of its final disposition conferred in this paragraph (b) shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, provision of the Articles of Association, by-law, agreement, vote of shareholders or disinterested directors or otherwise.

(3) Insurance. The Association may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Association or another corporation, partnership, joint venture, trust or other enterprise against any such expense, liability or loss, whether or not the Association would have the power to indemnify such person against such expense, liability or loss under the Delaware General Corporation Law.

ARTICLE VIII - AMENDMENT

These Articles of Association may be amended at any regular or special meeting of the shareholders by the affirmative vote of the holders of a majority of the stock of this Association, unless the vote of the holders of a greater amount of stock is required by law, and in that case by the vote of holders of such greater amount.

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Back to Search Bank Find

History of Wells Fargo Bank North Dakota, National Association, Sioux Falls, North Dakota (FDIC Cert: 3922)
Note: This institution is currently part of Wells Fargo Bank, National Association, Sioux Falls, South Dakota (FDIC Cert: 3511)

	Date	Event
1	1/1/1878	Institution established. Original name: The First National Bank And Trust Company Of Fargo (3922)
2	11/1/1979	Changed name to **First National Bank Of Fargo (3922)**.
3	5/1/1983	Changed name to **Norwest Bank Fargo, National Association (3922)**.
4	1/1/1988	Acquired Norwest Bank Bismarck, National Association (3901) in Bismarck, North Dakota.
5	1/1/1988	Changed name to **Norwest Bank North Dakota, National Association (3922).**
6	1/1/1988	Acquired Norwest Bank Grafton, National Association (3930) in Grafton, North Dakota.
7	1/1/1988	Acquired Norwest Bank Jamestown, National Association (3939) in Jamestown, North Dakota.
8	1/1/1988	Acquired Norwest Bank Mandan, National Association (3946) in Mandan, North Dakota.
9	1/1/1988	Acquired Norwest Bank Minot, National Association (3949) in Minot, North Dakota.
10	1/1/1988	Acquired Norwest Bank Valley City, National Association (3962) in Valley City, North Dakota.
11	1/1/1988	Acquired Norwest Bank Wahpeton, National Association (3963) in Wahpeton, North Dakota.
12	1/1/1988	Acquired Norwest Bank Hillsboro, National Association (15782) in Hillsboro, North Dakota.
13	1/1/1988	Acquired Norwest Capital Management & Trust Co. (90711) in Fargo, North Dakota.
14	9/8/1995	Acquired Liberty Bank And Trust, National Association (3916) in Dickinson, North Dakota.
15	9/8/1995	Acquired Norwest Bank Grand Forks, National Association (34025) in Grand Forks, North Dakota.
16	10/24/1998	Acquired First National Bank Of Valley City (3961) in Valley City, North Dakota.
17	10/24/1998	Acquired The First State Bank Of Casselton (11517) in Casselton, North Dakota.
18	10/24/1998	Acquired Litchville State Bank (13204) in Litchville, North Dakota.
19	8/26/2000	Changed name to **Wells Fargo Bank North Dakota, National Association (3922)**.
20	2/20/2004	**Merged into and subsequently operated as part of Wells Fargo Bank, National Association in Sioux Falls, South Dakota (3511)**
21	4/24/2004	Acquired Pacific Northwest Bank (30887) in Oak Harbor, Washington.
22	9/24/2005	Acquired First Community Bank, National Association (34049) in Houston, Texas.
23	6/17/2006	Acquired State Bank Of Rogers (9335) in Rogers, Minnesota.
24	9/23/2006	Acquired Fremont National Bank Of Canon City (3000) in Canon City, Colorado.
25	9/23/2006	Acquired Centennial Bank Of Pueblo (22301) in Pueblo, Colorado.
26	9/22/2007	Acquired Placer Sierra Bank (30307) in Auburn, California.
27	3/15/2008	Acquired Greater Bay Bank, National Association (27068) in Palo Alto, California.
28	10/18/2008	Acquired The Jackson State Bank (520) in Jackson, Wyoming.
29	10/18/2008	Acquired Shoshone First Bank (2214) in Cody, Wyoming.
30	10/18/2008	Acquired First State Bank Of Pinedale (18747) in Pinedale, Wyoming.
31	10/18/2008	Acquired Sheridan State Bank (25048) in Sheridan, Wyoming.
32	1/1/2009	Acquired Wells Fargo Bank Grand Junction-downtown, National Association (12863) in Grand Junction, Colorado.
33	1/1/2009	Acquired Wells Fargo Bank Grand Junction, National Association (19109) in Grand Junction, Colorado.
34	2/2/2009	Acquired Wells Fargo Financial Bank (26983) in Sioux Falls, South Dakota.
35	4/25/2009	Acquired Century Bank, National Association (3361) in Texarkana, Texas.
36	11/1/2009	Acquired Wells Fargo Bank Southwest, National Association (27076) in North Las Vegas, Nevada.
37	11/7/2009	Acquired Wachovia Bank Of Colorado, Interim National Association (59019) in Denver, Colorado.
38	3/20/2010	Acquired Wachovia Bank, National Association (33869) in Charlotte, North Carolina.
39	3/20/2010	Acquired Wachovia Bank Of Delaware, National Association (33931) in Wilmington, Delaware.
40	4/10/2010	Acquired Wachovia Card Services, National Association (58496) in Atlanta, Georgia.
41	5/10/2010	Acquired Wells Fargo Hsbc Trade Bank, National Association (34075) in San Francisco, California.
42	11/1/2010	Acquired Wells Fargo Alaska Trust Company, National Association (57755) in Anchorage, Alaska.
43	3/31/2011	Acquired Wells Fargo Central Bank (26839) in Calabasas, California.

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EXHIBIT F to Notice of Removal
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EXHIBIT G

Recording Request By
Fidelity National Title Company
Order # 112723

RECORDING REQUESTED BY:
WORLD SAVINGS BANK

WHEN RECORDED MAIL TO:
WORLD SAVINGS
FINAL DOCUMENTATION
CLOSING DEPARTMENT
P.O. BOX 659548
SAN ANTONIO, TX 78265-9548

LOAN NUMBER: 0024362576

NOTE AMOUNT: $629,600.00

2004251442 06/07/2004 08:30 AM
OFFICIAL RECORDS OF ALAMEDA COUNTY
PATRICK O'CONNELL
RECORDING FEE: 78.00

24 PGS

FOR RECORDER'S USE ONLY

DEED OF TRUST

THIS IS A FIRST DEED OF TRUST WHICH SECURES A NOTE WHICH CONTAINS PROVISIONS ALLOWING FOR CHANGES IN MY INTEREST RATE, FREQUENCY AND AMOUNT OF PAYMENTS AND PRINCIPAL BALANCE (INCLUDING FUTURE ADVANCES AND DEFERRED INTEREST). AT LENDER'S OPTION THE SECURED NOTE MAY BE RENEWED OR RENEGOTIATED.

THE MAXIMUM AGGREGATE PRINCIPAL BALANCE SECURED BY THIS DEED OF TRUST IS $787,000.00 WHICH IS 125% OF THE ORIGINAL PRINCIPAL NOTE AMOUNT.

I. DEFINITIONS OF WORDS USED IN THIS DEED OF TRUST

(A) **Security Instrument.** This Deed of Trust, which is dated MAY 19, 2004* * * * * * will be called the "Security Instrument."

(B) **Borrower.** EQUAAN DIA SMITH, AN UNMARRIED ~~MAN~~ WOMAN

sometimes will be called "Borrower" and sometimes simply "I" or "me."

(C) **Lender.** WORLD SAVINGS BANK, FSB, * ITS SUCCESSORS AND/OR ASSIGNEES, will be called "Lender." Lender is A FEDERAL SAVINGS BANK * * * * * * * * * * * which is organized and exists under the laws of the United States. Lender's address is 1901 HARRISON STREET, OAKLAND, CALIFORNIA 94612.

* 0 0 3 *

LENDER'S USE ONLY

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(D) **Note.** The note signed by Borrower and having the same date as this Security Instrument, including all extensions, renewals, substitutions and modifications thereof, will be called the "Note." The Note shows that I owe Lender the original principal amount of U.S. $629,600.00 * * ("Note Amount"), plus accrued and deferred interest and such other amounts as stated in the Note. I have promised to pay this debt in monthly payments and to pay the debt in full by JUNE 15, 2034.

(E) **Property.** The property that is described below in Section III entitled "Description of the Property" will be called the "Property."

(F) **Sums Secured.** The amounts described below in Section II entitled "Borrower's Transfer of Rights in the Property" sometimes will be called the "Sums Secured."

(G) **Person.** Any person, organization, governmental authority or other party will be called "Person."

(H) **Trustor, Beneficiary, Trustee.** Borrower is the "Trustor," Lender is the "Beneficiary" and GOLDEN WEST SAVINGS ASSOCIATION SERVICE CO., A CALIFORNIA CORPORATION * * * * * * * is the "Trustee.

II. BORROWER'S TRANSFER OF RIGHTS IN THE PROPERTY

I irrevocably grant and convey the Property to the Trustee, in trust for Lender, with a power of sale subject to the terms of this Security Instrument. This means that, by signing this Security Instrument, I am giving Lender and Trustee those rights that are stated in this Security Instrument and also those rights that the law gives to lenders who are beneficiaries of a deed of trust and to trustees of a deed of trust. I am giving Lender and Trustee these rights to protect Lender from possible losses that might result if I fail to:

(i) pay all amounts owed to Lender under the Note and all other notes secured by this Security Instrument, called the "Secured Notes," including future advances made by Lender and any changes to the Secured Notes made with the written consent of Lender;

(ii) pay, with interest, any amounts that Lender spends under Paragraphs 2 and 7 below to protect the value of the Property and Lender's rights in the Property; and

(iii) keep all of my other promises and agreements under this Security Instrument, the Secured Notes and any changes to the Secured Notes made with the written consent of Lender.

III. DESCRIPTION OF THE PROPERTY

I give Trustee rights in the Property described below:

(i) The property which is located at 6646 SARONI DRIVE, OAKLAND, CA 94611. * The legal description of the Property is attached as Exhibit "A" which is made a part of this Security Instrument. This Property is called the "Described Property."

(ii) All buildings and other improvements that are located on the Described Property;

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(iii) All rights in other property that I have as owner of the Described Property. These rights are known as easements, rights and appurtenances attached to the Property;

(iv) All rents or royalties and other income from the Described Property;

(v) All mineral, oil and gas rights and profits, water rights and stock that are part of the Described Property;

(vi) All rights that I have in the land which lies in the streets or roads in front of, behind or next to, the Described Property;

(vii) All fixtures that are now or in the future will be on the Described Property or on the property described in subsection (ii) of this Section;

(viii) All of the rights and property described in subsections (ii) through (vii) of this Section that I acquire in the future;

(ix) All replacements of or additions to the property described in subsections (ii) through (viii) of this Section; and

(x) All of the amounts that I pay to Lender under Paragraph 2 below.

IV. BORROWER'S RIGHT TO GRANT A SECURITY INTEREST IN THE PROPERTY AND BORROWER'S OBLIGATION TO DEFEND OWNERSHIP OF THE PROPERTY

I promise that: (i) I lawfully own the Property; (ii) I have the right to grant and convey the Property to Trustee; and (iii) there are no outstanding claims, charges, liens or encumbrances against the Property, except for those which are of public record.

I give a general warranty of title to Lender. This means that I will be fully responsible for any losses which Lender suffers because someone other than myself and the Trustee has some of the rights in the Property which I promise that I have. I promise that I will defend my ownership of the Property against any claims of such rights.

COVENANTS

I promise and I agree with Lender as follows:

1. BORROWER'S PROMISE TO PAY

I will pay to Lender, on time, all principal and interest due under the Secured Notes and any prepayment and late charges due under the Secured Notes.

2. PAYMENTS FOR TAXES AND INSURANCE

(A) Borrower's Obligations

I will pay all amounts necessary to pay taxes and hazard insurance premiums on the Property as well as assessments, leasehold payments, ground rents or mortgage insurance premiums (if any).

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(B) Escrow Accounts

Subject to applicable law, no escrow shall be required except upon written demand by Lender, in which case, I shall pay to Lender on the day payments are due under the Note, until the Note is paid in full, a sum ("Funds") for: (a) yearly taxes, penalties and assessments which may attain priority over this Security Instrument as a lien on the Property; (b) yearly leasehold payments or ground rents on the Property, if any; (c) yearly hazard or property insurance premiums; (d) yearly flood insurance premiums, if any; and (e) yearly mortgage insurance premiums, if any. These items are called "Escrow Items." Lender may, at any time, collect and hold Funds in an amount not to exceed the maximum amount a lender for a federally related mortgage loan may require for an escrow account under the federal Real Estate Settlement Procedures Act of 1974 as amended from time to time, 12 U.S.C. § 2601 et seq. ("RESPA"), unless another law that applies to the Funds sets a lesser amount. If so, Lender may, at any time, collect and hold Funds in an amount not to exceed the lesser amount. Lender may estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items in accordance with applicable law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is such an institution) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items. Lender may not charge me for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays me interest on the Funds and/or applicable law permits Lender to make such a charge. However, Lender may require me to pay a one-time charge for an independent real estate tax reporting service used by Lender in connection with this loan, unless applicable law provides otherwise. Unless an agreement is made or applicable law requires interest to be paid, Lender shall not be required to pay me any interest or earnings on the Funds. Lender shall give to me, without charge, an annual accounting of the Funds, showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for all sums secured by this Security Instrument.

If the Funds held by Lender exceed the amounts permitted to be held by applicable law, Lender shall account to me for the excess Funds in accordance with the requirements of applicable law. If the amount of the Funds held by Lender at any time is not sufficient to pay the Escrow Items when due, Lender may so notify me in writing, and, in such case I shall pay to Lender the amount necessary to make up the deficiency or shortage. I shall make up the deficiency or shortage in accordance with the requirements of the Lender, at its sole discretion, in the manner and times prescribed by RESPA.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to me any Funds held by Lender. If, under Paragraph 28, Lender shall acquire or sell the Property, Lender, prior to the acquisition or sale of the Property, shall apply any Funds held by Lender at the time of acquisition or sale as a credit against the sums secured by this Security Instrument.

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3. APPLICATION OF BORROWER'S PAYMENTS

Unless the law requires otherwise, Lender will apply each of my payments under the Secured Notes and under Paragraphs 1 and 2 above in the following order and for the following purposes:

First, to pay prepayment charges due under the Secured Notes;

Second, to pay any advances due to Lender under this Security Instrument;

Third, to pay the amounts due to Lender under Paragraph 2 above;

Fourth, to pay interest due under the Secured Notes;

Fifth, to pay deferred interest due under the Secured Notes;

Sixth, to pay principal due under the Secured Notes;

Last, to pay late charges due under the Secured Notes.

4. BORROWER'S OBLIGATION TO PAY CHARGES, ASSESSMENTS AND CLAIMS

I will pay all taxes, assessments and any other charges and fines that may be imposed on the Property and that may be superior to this Security Instrument.

I will also make payments due under my lease if I am a tenant on the Property and I will pay ground rents (if any) due on the Property. I will pay these amounts either by making the payments to Lender that are described in Paragraph 2 above or by making the payments on time to the Person owed them.

Any claim, demand or charge that is made against property because an obligation has not been fulfilled is known as a **lien.** I will promptly pay or satisfy all liens against the Property that may be superior to this Security Instrument. However, this Security Instrument does not require me to satisfy a superior lien if: (A) I agree, in writing, to pay the obligation which gave rise to the superior lien and Lender approves in writing the way in which I agree to pay that obligation; or (B) in good faith, I argue or defend against the superior lien in a lawsuit so that, during the lawsuit, the superior lien may not be enforced and no part of the Property must be given up; or (C) I secure from the holder of that other lien an agreement, approved in writing by Lender, that the lien of this Security Instrument is superior to the lien held by that Person. If Lender determines that any part of the Property is subject to a superior lien, Lender may give to me a notice identifying the superior lien. I will pay or satisfy the superior lien or take one or more of the actions set forth above within 10 days of the giving of notice.

5. BORROWER'S OBLIGATION TO MAINTAIN INSURANCE

At my sole cost and expense, I will obtain and maintain hazard insurance to cover all buildings and other improvements that now are or in the future will be located on the Property. The insurance must cover loss or damage caused by fire, hazards normally covered

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by "extended coverage" hazard insurance policies and other hazards for which Lender requires coverage. The insurance must be in the amounts and for the periods of time required by Lender. I may choose the insurance company but my choice is subject to Lender's approval. Lender may not refuse to approve my choice unless the refusal is reasonable. All of these insurance policies and renewals of the policies must include what is known as a **Standard Mortgagee Clause** to protect Lender. The form of all policies and renewals must be acceptable to Lender. Lender will have the right to hold the policies and renewals. If Lender requires, I will promptly give Lender all receipts of paid premiums and renewal notices that I receive.

If I obtain earthquake insurance, any other hazard insurance, credit life and/or disability insurance, or any other insurance on or relating to the Property or the Secured Notes and which are not specifically required by Lender, I will name Lender as loss payee of any proceeds.

If there is a loss or damage to the Property, I will promptly notify the proper insurance company and Lender. If I do not promptly prove to the insurance company that the loss or damage occurred, then Lender may do so.

The amount paid by the insurance company is called "Proceeds." Any Proceeds received will be applied first to reimburse Lender for costs and expenses incurred in connection with obtaining the Proceeds, and then, at Lender's option and in the order and proportion as Lender may determine in its sole and absolute discretion, regardless of any impairment or lack of impairment of security, as follows: (A) to the extent allowed by applicable law, to the Sums Secured in a manner that Lender determines and/or (B) to the payment of costs and expenses of necessary repairs or to the restoration of the Property to a condition satisfactory to Lender, such application to be made in the manner and at the times as determined by Lender.

If I abandon the Property or if I do not answer, within 30 days, a notice from Lender stating that the insurance company has offered to settle a claim, Lender may collect the Proceeds. Lender may use the Proceeds to repair or restore the Property or to pay the Sums Secured. The 30-day period will begin when the notice is given.

If any Proceeds are used to reduce the amount of principal which I owe to Lender under the Secured Notes, that use will not delay the due date or change the amount of any of my monthly payments under the Secured Notes and under Paragraphs 1 and 2 above. However, Lender and I may agree in writing to delays or changes.

If Lender acquires the Property under Paragraph 28 below, all of my rights in the insurance policies will belong to Lender. Also, all of my rights in any proceeds which are paid because of damage that occurred before the Property is acquired by Lender or sold will belong to Lender. However, Lender's rights in those proceeds will not be greater than the Sums Secured immediately before the Property is acquired by Lender or sold.

If I am required by Lender to pay premiums for mortgage insurance, I will pay the premiums until the requirement for mortgage insurance ends according to my written agreement with Lender or according to law.

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6. BORROWER'S OBLIGATION TO MAINTAIN THE PROPERTY AND TO FULFILL ANY LEASE OBLIGATIONS

I will keep the Property in good repair including, but not limited to, keeping the Property free from debris, mold, termites, dry rot and other damaging pests and infestations. I will not destroy or substantially change the Property and I will not allow the Property to deteriorate. I will keep and maintain the Property in compliance with any state or federal health and safety laws, and hazardous materials and hazardous waste laws. I will not use, generate, manufacture or store any hazardous materials or hazardous waste on, under or about the Property. I will indemnify, defend and hold harmless Lender and its employees, officers and directors and their successors from any claims, damages or costs for required or necessary repair or the removal of mold, termites, dry rot, other damaging pests and infestations and hazardous waste or any other hazardous materials claim. If I do not own but am a tenant on the Property, I will fulfill my obligations under my lease. I also agree that, if I acquire the fee title to the Property, my lease interest and the fee title will not merge unless Lender agrees to the merger in writing.

7. LENDER'S RIGHT TO PROTECT ITS RIGHTS IN THE PROPERTY

If: (A) I do not keep my promises and agreements made in this Security Instrument, or (B) someone, including me, begins a legal proceeding that may significantly affect Lender's rights in the Property (such as a legal proceeding in bankruptcy, in probate, for condemnation or to enforce laws or regulations), then Lender may do and pay for whatever it deems reasonable or appropriate to protect the Lender's rights in the Property. Lender's actions may, without limitation, include appearing in court, paying reasonable attorneys' fees, purchasing insurance required under Section 5, above (such insurance may cost more and provide less coverage than the insurance I might purchase), and entering on the Property to make repairs. Lender must give me notice before Lender may take any of these actions. Although Lender may take action under this Paragraph 7, Lender does not have to do so. Any action taken by Lender under this Paragraph 7, will not release me from my obligations under this Security Instrument.

I will pay to Lender any amounts which Lender advances under this Paragraph 7 with interest, at the interest rate in effect under the Secured Notes which have not been paid. I will pay those amounts to Lender when Lender sends me a notice requesting that I do so. Interest on each amount will begin to accrue on the date that the amount is advanced by Lender. However, Lender and I may agree in writing to terms that are different from those in this Paragraph 7. This Security Instrument will protect Lender in case I do not keep this promise to pay those amounts with interest.

8. LENDER'S RIGHT TO INSPECT THE PROPERTY

Lender, and others authorized by Lender, may enter upon and inspect the Property. They must do so in a reasonable manner and at reasonable times. Before or at the time an inspection is made, Lender must give me notice stating a reasonable purpose for the inspection.

9. AGREEMENTS ABOUT GOVERNMENTAL TAKING OF THE PROPERTY

I assign to Lender all my rights: (A) to proceeds of all awards or claims for damages resulting from condemnation, eminent domain or other governmental taking of all or any part of the Property; and (B) to proceeds from a sale of all or any part of the Property that is made to avoid condemnation, eminent domain or other government taking of the property. All of those proceeds will be paid to Lender.

If all of the Property is taken, the proceeds will be used to reduce the Sums Secured. If any of the proceeds remain after the amount that I owe to Lender has been paid in full, the remaining proceeds will be paid to me. Unless Lender and I agree otherwise in writing, if

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only a part of the Property is taken, the amount that I owe to Lender will be reduced only by the amount of proceeds multiplied by the following fraction: (A) the total amount of the Sums Secured immediately before the taking, divided by (B) the fair market value of the Property immediately before the taking. The remainder of the proceeds will be paid to me.

If I abandon the Property or if I do not answer, within 30 days, a notice from Lender stating that a governmental authority has offered to make a payment or to settle a claim for damages, Lender has the authority to collect the proceeds. Lender may then use the proceeds to repair or restore the Property or to reduce the Sums Secured. The 30-day period will begin when the notice is given.

If any proceeds are used to reduce the amount of principal which I owe to Lender under the Secured Notes, that use will not delay the due date or change the amount of any of my monthly payments under the Secured Notes and under Paragraphs 1 and 2 above. However, Lender and I may agree in writing to delays or changes.

10. CONTINUATION OF BORROWER'S OBLIGATIONS AND OF LENDER'S RIGHTS

(A) **Borrower's Obligations**

Lender may allow a Person who takes over my rights and obligations subject to this Security Instrument to delay or to change the amount of the monthly payments of principal and interest due under the Secured Notes or under this Security Instrument. Even if Lender does this, however, that Person and I will both still be fully obligated under the Secured Notes and under this Security Instrument.

Lender may allow those delays or changes for a Person who takes over my rights and obligations, even if Lender is requested not to do so. Lender will not be required to bring a lawsuit against such a Person for not fulfilling obligations under the Secured Notes or under this Security Instrument, even if Lender is requested to do so.

(B) **Lender's Rights**

Even if Lender does not exercise or enforce any of its rights under this Security Instrument or under the law, Lender will still have all of those rights and may exercise and enforce them in the future. Even if Lender obtains insurance, pays taxes, or pays other claims, charges or liens against the Property, Lender will have the right under Paragraph 28 below to demand that I make immediate payment in full of the amounts that I owe to Lender under the Secured Notes and under this Security Instrument.

11. OBLIGATIONS OF BORROWER, CO-SIGNORS AND OF PERSONS TAKING OVER BORROWER'S RIGHTS OR OBLIGATIONS

Except as provided below, if more than one Person signs this Security Instrument as Borrower, each of us is fully obligated to keep all of Borrower's promises and obligations contained in this Security Instrument. Lender may enforce Lender's rights under this Security Instrument against each of us individually or against all of us together. This means that any one of us may be required to pay all of the Sums Secured.

Any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signor"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signor's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signor's consent.

Any Person who takes over my rights or obligations under this Security Instrument will have all of my rights and will be obligated to keep all of my promises and agreements made

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in this Security Instrument. Similarly, any Person who takes over Lender's rights or obligations under this Security Instrument will have all of Lender's rights and will be obligated to keep all of Lender's agreements made in this Security Instrument.

12. MAXIMUM LOAN CHARGES

If the loan secured by this Security Instrument is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed permitted limits, then: (A) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limits and (B) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Secured Notes or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Secured Notes.

13. LEGISLATION AFFECTING LENDER'S RIGHTS

If a change in applicable law would make any provision of the Secured Notes or this Security Instrument unenforceable, Lender may require that I make immediate payment in full of all Sums Secured by this Security Instrument.

14. NOTICES REQUIRED UNDER THIS SECURITY INSTRUMENT

Any notice that must be given to me under this Security Instrument will be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice will be addressed to me at 6646 SARONI DRIVE, OAKLAND, CA 94611. *
A notice will be given to me at an alternative address if I give Lender notice of my alternative address. I may give notice to Lender of my alternative address in writing or by calling Lender's customer service telephone number provided on my billing statement. I may designate only one mailing address at a time for notification purposes. Except as permitted above for changes of address, any notice that must be given to Lender under this Security Instrument will be given by mailing it by first class mail to Lender's address stated in Section I.(C) above entitled, "Definitions of Words Used In This Deed of Trust," unless Lender gives me notice of a different address. Any notice required by this Security Instrument is given when it is mailed or when it is delivered according to the requirements of this Paragraph 14 or of applicable law.

15. GOVERNING LAW; SEVERABILITY

This Security Instrument and the Secured Notes shall be governed by and construed under federal law and federal rules and regulations, including those for federally chartered savings institutions, ("Federal Law") and, to the extent Federal Law does not apply, by the law of the jurisdiction in which the Property is located. In the event that any of the terms or provisions of this Security Instrument or the Secured Notes are interpreted or construed by a court of competent jurisdiction to be void, invalid or unenforceable, such decision shall affect only those provisions so construed or interpreted and shall not affect the remaining provisions of this Security Instrument or the Secured Notes.

16. BORROWER'S COPY

I acknowledge the receipt of one conformed copy of the Secured Notes and of this Security Instrument.

17. LENDER'S RIGHTS TO RENTAL PAYMENTS AND TO TAKE POSSESSION OF THE PROPERTY

If Lender requires immediate payment in full or if I abandon the Property, then Lender, Persons authorized by Lender, or a receiver appointed by a court at Lender's request may: (A) collect the rental payments, including overdue rental payments, directly from the tenants; (B), enter upon and take possession of the Property; (C) manage the Property; and (D) sign, cancel and change rental agreements and leases. If Lender notifies the tenants that Lender has the right to collect rental payments directly from them under this Paragraph 17, I agree that the

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tenants may make those rental payments to Lender without having to ask (i) Lender whether I have failed to keep my promises and agreements under this Security Instrument, or (ii) me for my permission to do so.

If Lender acts to have the Property sold after a Breach of Duty as defined in Paragraph 28, I understand and agree that: (A) my right to occupy the Property ceases at the time the Property is sold; (B) I shall have no right to occupy the Property after such sale without the written consent of the new owner of the Property; and (C) my wrongful and unlawful possession of the Property may subject me to monetary damages, including the loss of reasonable rent and the cost of eviction. All rental payments collected by Lender or by a receiver, other than the rent paid by me under this Paragraph 17, will be used first to pay the costs of collecting rental payments and of managing the Property. If any part of the rental payments remains after those costs have been paid in full, the remaining part will be used to reduce the Sums Secured. The costs of managing the Property may include the receiver's fees, reasonable attorneys' fees and the costs of any necessary bonds.

18. INJURY TO PROPERTY; ASSIGNMENT OF RIGHTS

An **assignment** is a transfer of rights to another. I may have rights to bring legal action against persons, other than Lender, for injury or damage to the Property or in connection with the loan made to me by Lender and which arose or will arise before or after the date of this Security Instrument. These rights to bring legal action may include an action for breach of contract, fraud, concealment of a material fact or for intentional or negligent acts. I assign these rights, and any proceeds arising from these rights, as permitted by applicable law, to Lender. Lender may, at its option, enforce these rights in its own name and may apply any proceeds resulting from this assignment to any amount that I may owe to Lender under the Note and this Security Instrument after deducting any expenses, including attorneys' fees, incurred in enforcing these rights. At the request of Lender, I will sign any further assignments or other documents that may be necessary to enforce this assignment.

19. CLERICAL ERRORS

In the event Lender at any time discovers that this Security Instrument, the Secured Notes or any other document related to this loan, called collectively the "Loan Documents," contains an error which was caused by a clerical mistake, calculation error, computer error, printing error or similar error, I agree, upon notice from Lender, to reexecute any Loan Documents that are necessary to correct any such error(s) and I also agree that I will not hold Lender responsible for any damage to me which may result from any such error.

20. LOST, STOLEN OR MUTILATED DOCUMENTS

If any of the Loan Documents are lost, stolen, mutilated or destroyed and Lender delivers to me an indemnification in my favor, signed by Lender, then I will sign and deliver to Lender a Loan Document identical in form and content which will have the effect of the original for all purposes.

21. WAIVER OF STATUTE OF LIMITATIONS

I will waive, within applicable law, the pleading of the statute of limitations as a defense to enforce this Security Instrument, including any obligations referred to in this Security Instrument or Secured Notes.

22. CAPTIONS

The captions and headings at the beginning of each paragraph of this Security Instrument are for reference only and will not be used in the interpretation of any provision of this Security Instrument.

23. MODIFICATION

This Security Instrument may be modified or amended only by an agreement in writing signed by Borrower and Lender.

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24. CONDOMINIUM, COOPERATIVE AND PLANNED UNIT DEVELOPMENT OBLIGATIONS

If the Property is a unit in a condominium, cooperative or planned unit development, each of which shall be called the "Project," and I have an interest in the common elements of the Project, then Lender and I agree that:

(A) If an owners association or other entity, called "Owners Association," holds title to Property for the benefit or use of the Project and its members or shareholders, the Property also includes my interest in the Owners Association and the uses, proceeds and benefits of my interest.

(B) The following are called the "Constituent Documents:" (i) The declaration or any other document which created the Project; (ii) By-laws of the Owners Association; (iii) Code of regulations for the Project; (iv) Articles of incorporation, trust instrument or equivalent document which creates the Owners Association; (v) The Project's covenants, conditions and restrictions; (vi) Other equivalent documents.

I shall perform all of my obligations under the Constituent Documents, including my obligation to pay, when due, all dues and assessments. If I do not pay the dues and assessments when due, Lender may, at its option, pay them. I will pay to Lender any amounts which Lender advances under this Paragraph 24 according to the terms described in Paragraph 7 above.

(C) If the Owners Association maintains, with an insurance company reasonably acceptable to Lender, a **master** or **blanket** policy on the Project which is satisfactory to Lender and which provides insurance coverage on the terms, in the amounts, for the periods, and against the hazards Lender requires, including fire and hazards included within the term "extended coverage," and Lender is provided with evidence of such **master** or **blanket** policy, then: (i) Lender waives the provision in Paragraph 2(B) above for the monthly payment to Lender of the estimated yearly premium installments for hazard insurance on the Property; and (ii) hazard insurance coverage on the Property as required by Paragraph 5 above is deemed to be satisfied to the extent that the required coverage is provided by the Owners Association policy. I shall give Lender prompt notice of any lapse in the required hazard insurance coverage. I shall provide a copy of such **master** or **blanket** policy to Lender annually.

In the event of a distribution of any hazard insurance proceeds, including without limitation any earthquake or special hazards insurance whether or not such coverage was required by Lender, in lieu of restoration or repair following a loss to the Property, whether to the unit or to common elements, any proceeds payable to me are hereby assigned and shall be paid to Lender for application to the Sums Secured by this Security Instrument, with any excess paid to me.

I shall take such actions as may be reasonable to insure that the Owners Association maintains a public liability insurance policy acceptable to Lender in form, amount and extent of coverage.

(D) I shall not, except after notice to Lender and with Lender's prior written consent, either partition or subdivide the Property or consent to: (i) the abandonment or termination of the Project, except for abandonment or termination required by law in the case of substantial destruction by fire or other casualty or in the case of condemnation, eminent domain or other governmental taking; (ii) any amendment to any provision of Constituent Documents unless the provision is for the express benefit of Lender or of lenders generally; (iii) termination of professional management and assumption of self-management of the Owners Association; or (iv) any action which would have the effect of rendering the **master** or **blanket** hazard insurance policy and/or the public liability insurance coverage maintained by the Owners Association unacceptable to Lender.

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25. FUTURE ADVANCES

At Borrower's request, Lender, at its option (but before release of this Security Instrument or the full reconveyance of the Property described in the Security Instrument) may lend future advances, with interest, to Borrower. Such future advances, with interest, will then be additional Sums Secured under this Security Instrument.

26. AGREEMENTS ABOUT LENDER'S RIGHTS IF THE PROPERTY IS SOLD OR TRANSFERRED

Acceleration of Payment of Sums Secured. Lender may, at its option, require immediate payment in full of all Sums Secured by this Security Instrument if all or any part of the Property, or if any right in the Property, is sold or transferred without Lender's prior written permission. Lender also may, at its option, require immediate payment in full if Borrower is not a natural Person and a beneficial interest in Borrower is sold or transferred without Lender's prior written permission. However, Lender shall not require immediate payment in full if this is prohibited by Federal Law in effect on the date of the Security Instrument.

If Lender exercises the option to require immediate payment in full, Lender will give me notice of acceleration. If I fail to pay all Sums Secured by this Security Instrument immediately, Lender may then or thereafter invoke any remedies permitted by this Security Instrument without further notice to or demand on me.

Exception to Acceleration of Payment of Sums Secured. If the sale or transfer of all or any part of the Property, or of a beneficial interest in Borrower, if Borrower is not a natural Person, is the first one to occur after the date of this Security Instrument, Lender will not exercise the option to accelerate payment in full of all Sums Secured and the loan may be assumed if:

(i) Lender receives a completed written application from transferee to evaluate the creditworthiness of transferee as if a new loan were being made to the transferee by Lender;

(ii) Lender approves the creditworthiness of the transferee in writing;

(iii) transferee makes a cash downpayment sufficient to meet Lender's then current underwriting standards;

(iv) an assumption fee, in an amount to be determined by Lender (but not to exceed 1% of the balance of Principal and interest due under the Secured Notes at the time of sale or transfer of the Property or of the interest in the Borrower) is paid to Lender; and

(v) the transferee executes an assumption agreement which is satisfactory to Lender.

The loan may be assumed under its then existing terms and conditions with one exception; the Lifetime Rate Cap may be changed. The Lifetime Rate Cap shall be changed to an interest rate which is the sum of the interest rate in effect on the date of a sale or transfer of the Property or beneficial interest in Borrower plus 5 percentage points, if that sum exceeds the Lifetime Rate Cap stated in the Secured Notes.

27. SUBSTITUTION OF TRUSTEE

I agree that Lender may at any time appoint a successor trustee and that Person shall become the Trustee under this Security Instrument as if originally named as Trustee.

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28. RIGHTS OF THE LENDER IF THERE IS A BREACH OF DUTY

It will be called a "Breach of Duty" if (i) I do not pay the full amount of each monthly payment on the date it is due; or (ii) I fail to perform any of my promises or agreements under the Note or this Security Instrument; or (iii) any statement made in my application for this loan was materially false or misleading or if any statement in my application for this loan was materially false or misleading by reason of my omission of certain facts; or (iv) I have made any other statement to Lender in connection with this loan that is materially false or misleading. If there is a Breach of Duty by me, Lender may demand an immediate payment of all sums secured.

If there is a Breach of Duty by me, Lender may take action to have the Property sold under any applicable law.

Lender does not have to give me notice of a Breach of Duty. If Lender does not make a demand for full payment upon a Breach of Duty, Lender may make a demand for full payment upon any other Breach of Duty.

If there is a Breach of Duty, Lender may also take action to have a receiver appointed to collect rents from any tenants on the Property and to manage the Property. The action to appoint a receiver may be taken without prior notice to me and regardless of the value of the Property.

The sale of the Property may be postponed by or at the direction of Lender. If the Property is sold, I agree that it may be sold in one parcel. I also agree that Lender may add to the amount that I owe to Lender all legal fees, costs, allowances, and disbursements incurred as a result of the action to sell the Property.

Lender will apply the proceeds from the sale of the Property in the following order: (A) to all fees, expenses and costs incurred in connection with the sale, including trustees' and attorneys' fees, if any; (B) to all Sums Secured by this Security Instrument; and (C) any excess to the Person or Persons legally entitled to it.

29. RECONVEYANCE

Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing debt secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without warranty to Borrower. Lender may charge Borrower a reasonable fee for reconveying the Property, but only if the fee is paid to a third party (including the Trustee) for services rendered and the charging of the fee is permitted, whether expressly or by lack of express prohibition, under applicable law. If the fee charged does not exceed any maximum fee set by applicable law, the fee is conclusively presumed to be reasonable.

30. STATEMENT OF OBLIGATION

Lender may collect a fee of $60.00, or such greater maximum amount as may from time to time be allowed by law, for furnishing any statement of obligation with respect to this Security Instrument or the Secured Notes.

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31. (X) QUICK QUALIFYING LOAN PROGRAM

I have qualified for this loan by making statements of fact which were relied upon by Lender to approve the loan rapidly. This loan is called a "Quick Qualifying Loan." I have stated and I confirm that: (A) I do not have any other Quick Qualifying Loans with Lender; (B) I have agreed to not further encumber the Property and do not intend to further encumber the Property for at least six months after the date of the Secured Notes and this Security Instrument; and (C) If I am purchasing the Property, all of the terms of the purchase agreement submitted to Lender are true and the entire down payment is cash from my own funds.

If any of the statements of fact that I have made are materially false or misleading, I will be in default under the Secured Notes and this Security Instrument. If I am in such default, Lender may, at its option, increase the interest rate and margin subject to the Lifetime Rate Cap stated in the Secured Notes.

32. (X) OWNER OCCUPANCY

Lender has relied upon statements of fact which I have made to qualify for this loan. I have stated and confirm that: (A) the Property is my personal and primary residence; (B) I will occupy the Property not later than 30 days after this Security Instrument is recorded; and (C) I will use the Property as my residence for at least 12 months from the date this Security Instrument is recorded.

If any of the statements of fact that I have made are materially false or misleading, I will be in default under the Secured Notes and this Security Instrument. If I am in such default, Lender may, at its option, increase the interest rate and margin, subject to the Lifetime Rate Cap stated in the Secured Notes.

(X) VALUE INDICATES THAT THE PARAGRAPH APPLIES.

THIS SPACE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS.

0024362576

BY SIGNING BELOW, I accept and agree to the promises and agreements contained in this Security Instrument and in any rider(s) signed by me and recorded in proper official records.

(PLEASE SIGN YOUR NAME EXACTLY AS IT APPEARS BELOW)

BORROWER(S):

_________________________________ (Seal)
EQUAAN DIA SMITH

_________________________________ (Seal)

_________________________________ (Seal)

_________________________________ (Seal)

_________________________________ (Seal)

_________________________________ (Seal)

ATTACH INDIVIDUAL NOTARY ACKNOWLEDGEMENT

A "MODIFICATION TO NOTE AND RIDER TO SECURITY INSTRUMENT" IS ATTACHED HERETO AND RECORDED HEREWITH.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of CONTRA COSTA } ss.

On MAY 27, 2004 (Date), before me, THOMAS F. NOON, JR. - NOTARY PUBLIC (Name and Title of Officer (e.g., "Jane Doe, Notary Public"))

personally appeared EQUAAN DA SMITH (Name(s) of Signer(s))

☐ personally known to me
☒ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

THOMAS F. NOON JR.
Comm. # 1394225
NOTARY PUBLIC - CALIFORNIA
Contra Costa County
My Comm. Expires Feb. 13, 2007

WITNESS my hand and official seal.

Place Notary Seal Above

[signature] Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Deed of Trust

Document Date: ______ Number of Pages: ______

Signer(s) Other Than Named Above: ______

Capacity(ies) Claimed by Signer

Signer's Name: ______

☐ Individual
☐ Corporate Officer — Title(s): ______
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: ______

Signer Is Representing: ______

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

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ILLEGIBLE NOTARY SEAL DECLARATION
(GOVERNMENT CODE 27361.7)

I DECLARE UNDER PENALTY OF PERJURY THAT THE NOTARY SEAL ON THE DOCUMENT TO WHICH THIS STATEMENT IS ATTACHED, READS AS FOLLOWS:

NAME OF NOTARY PUBLIC: THOMAS F. MOON, JR.

COMMISION NUMBER: 1394225

NOTARY PUBLIC
STATE: CALIFORNIA

MY COMMISSION EXPIRES: 2-13-07
(DATE)

COUNTY ON NOTARY: CONTRA COSTA

PRINT NAME OF DECLERANT: E. BETETA

SIGNATURE OF
DELERANT: [signature]

CITY AND STATE OF
EXECUTION: PLEASANTON, CALIFORNIA

DATE SIGNED: 6/4/04

WORLD SAVINGS BANK, FSB

EXHIBIT "A"
LEGAL DESCRIPTION

LOAN NO. 0024362576

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE COUNTY OF ALAMEDA STATE OF CALIFORNIA * * * * *, DESCRIBED AS FOLLOWS:

Lot 293, according to the map of Montclair Highlands filed September 11, 1925, in the office of the County Recorder of Alameda County and of Record in Map Book 4, pages 88 and 89.

Assessor's Parcel No: 048E-7346-025

TAPE ONLY THE LEGAL DESCRIPTION TO THIS PAGE.

GF430A1 (02.15.01/1-01) R30A
REV. (07.15.01/2-01)

CA

RIDER TO SECURITY INSTRUMENT AND MODIFICATION TO NOTE

Fixed Rate Option Feature

DATE: MAY 19, 2004 LOAN NUMBER: 0024362576

FOR VALUE RECEIVED, the undersigned (the "Borrower") agrees that the following provisions shall be incorporated into the Note and Security Instrument of even date herewith which were executed by the Borrower. The Security Instrument was executed by the Borrower and creates a lien in favor of WORLD SAVINGS BANK, FSB, A FEDERAL SAVINGS BANK, * * * * * * * * * * * * * * ITS SUCCESSORS AND/OR ASSIGNEES ("Lender").

This Rider to Security Instrument and Modification to Note ("Rider and Modification") is attached to the Security Instrument. To the extent that the provisions of this Rider and Modification are inconsistent with the provisions of the Note and the Security Instrument, the provisions of this Rider and Modification shall prevail and shall supersede any such inconsistent provisions in the Note and the Security Instrument. Except to the extent modified by this Rider and Modification and other rider(s) and modification(s), if any, the provisions of the Note and the Security Instrument shall remain in full force and effect. Any capitalized term not defined in this Rider and Modification shall have the meaning given to such term in the Note or the Security Instrument.

* 0 0 6 *

LENDER'S USE ONLY

0024362576

A. **Conversion Option; Conversion Period**

The Borrower has the right to convert the adjustable rate of interest under the Note to a fixed rate of interest (the "Conversion Option") at any time beginning on the first regularly scheduled payment due date following the date the Borrower could first prepay the loan in full without paying a prepayment charge under the terms of the Note, and continuing until the day immediately prior to the seventh anniversary of the Borrower's first regularly scheduled payment due date under the Note (the "Conversion Period"). Unless exercised by the Borrower during the Conversion Period, the Conversion Option will expire and the adjustable interest rate provisions in the Note will remain in full force and effect. Once the Borrower exercises the Conversion Option, the Note cannot later be converted back to an adjustable interest rate.

If the Borrower's loan is payable in biweekly installments, and if the Borrower exercises the Conversion Option, the Borrower's payment schedule under the Note will automatically convert to monthly installments and the loan will be due in full on the non-accelerated Maturity Date stated in the Note.

B. **Conditions to Exercising the Conversion Option**

The Borrower can exercise the Conversion Option only if the Borrower has: (i) made all of the payments due under the Note and the Security Instrument prior to the exercise of the Conversion Option; (ii) made no more than two (2) payments under the Note more than 15 days after their regularly scheduled due dates during the 12-month period immediately preceding the exercise of the Conversion Option; and (iii) met all other terms and conditions of the Note and the Security Instrument.

C. **Calculating the Fixed Rate**

The fixed rate of interest that will apply upon the exercise of the Conversion Option (the "Conversion Rate") will be calculated by adding 1.000 percentage points to the then current Federal National Mortgage Association's required net yield for 30-year fixed rate mortgages covered by applicable 60-day mandatory delivery commitments [expressed as a percentage] (the "FNMA Rate"). This calculation will be made at the time and in the manner described in paragraph D of this Modification and Rider. Any periodic interest rate change limitation in the Note will not apply to the fixed rate conversion, but in no event will the Conversion Rate be higher than the lifetime interest rate cap set forth in the Note.

The Borrower understands that the FNMA Rate fluctuates and that the fixed rates available during the Conversion Period may be substantially higher than the fixed rate available at the time the Borrower's loan is made. In the event the FNMA Rate is no longer quoted, the Lender will select an alternative rate source.

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The Borrower may ask for the then current FNMA Rate by calling the Lender's fixed rate conversion representatives at the toll-free customer service number given on the Borrower's monthly statement.

D. Exercising the Conversion Option

To exercise the Conversion Option, the Borrower will take and complete the following steps before the end of the Conversion Period.

1. Lock-in the Fixed Conversion Rate

The Borrower will first obtain a Conversion Rate from the Lender by calling the Lender's fixed rate conversion representatives at the toll-free customer service number given on the Borrower's most recent monthly statement. The Lender will calculate the Conversion Rate as of that day, using the last quoted FNMA Rate from the immediately preceding business day. The Conversion Rate will be binding on the Borrower and the Lender for fourteen (14) days (the "Exercise Period") following the Borrower's telephone confirmation of the desire to exercise the Conversion Option.

2. Notice to Convert; Conversion Fee

After the Borrower obtains the Conversion Rate in the manner set forth above, the Lender will furnish the Borrower with a written notice to convert (the "Conversion Notice"). The Borrower will sign the Conversion Notice and return it to the Lender along with a conversion fee of U.S. $200.00 * * * * (the "Fee"). **Notwithstanding any notice provision to the contrary in the Note or the Security Instrument, the Conversion Option will be exercised only if the Conversion Notice and Fee are actually received at World Savings, Attn: Customer Service Administration, 4101 Wiseman Boulevard, Bldg. 106, San Antonio, Texas 78251, or at such other address as designated by the Lender in the Conversion Notice, prior to the end of the Exercise Period; otherwise, the Borrower must obtain a new Conversion Rate and start a new Exercise Period. The Borrower bears all risk of delivery, including, without limitation, the risks of non-delivery, misdelivery, loss or destruction.**

Notwithstanding anything to the contrary in this Rider and Modification, if the Borrower fails for any reason to exercise the Conversion Option in the manner described above after obtaining three (3) Conversion Rates and Exercise Periods, the Conversion Option will terminate and can no longer be exercised.

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E. New Monthly Payment Amount

The Lender will calculate the Borrower's new monthly principal and interest payment after receiving the signed Conversion Notice and Fee during the Conversion Period. The Borrower's new monthly payment will be an amount sufficient to pay, in substantially equal payments by the Maturity Date, the unpaid principal balance of the Note (including any Deferred Interest) plus interest charged at the Conversion Rate. The payment change limitations in the Note do not apply to the fixed rate conversion.

If the Lender receives the Conversion Notice and Fee fifteen (15) days or more before the Borrower's next regularly scheduled payment due date, unpaid principal will accrue interest at the Conversion Rate beginning on the next regularly scheduled payment due date. If the Lender receives the Conversion Notice and Fee less than fifteen (15) days before the Borrower's next regularly scheduled payment due date, unpaid principal will accrue interest at the Conversion Rate beginning on the second following regularly scheduled payment due date. The date on which the Conversion Rate is first in effect is called the "Conversion Date." Interest will continue to accrue on unpaid principal in accordance with the adjustable interest rate provisions of the Note up to, but not including, the Conversion Date. The Borrower will continue to make monthly payments in accordance with the adjustable interest rate provisions of the Note through and including the payment that falls due on the Conversion Date. The Borrower's first fixed rate monthly payment will be due one month from the Conversion Date, and subsequent monthly payments will be due on the same day of each following month.

For example, if the Lender receives the Conversion Notice and fee on March 10, which is more than fifteen (15) days before the Borrower's next payment due April 1, the Conversion Rate will be charged beginning April 1 and the first fixed rate monthly payment will be due on May 1. The adjustable rate will be charged through March 31 and the Borrower pays the adjustable rate monthly payment due April 1. If the Conversion Notice and Fee were received March 20, which is less than 15 days before the Borrower's next payment due April 1, the Conversion Rate would be charged beginning on May 1 and the first fixed rate monthly payment would be due June 1. The adjustable rate would be charged through April 30 and the Borrower would pay the adjustable rate monthly payments due April 1 and May 1.

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F. **Loan Not Assumable and Due-On-Sale After Conversion to a Fixed Rate**

Notwithstanding any provision to the contrary contained in the Note or the Security Instrument, if the Borrower exercises the Conversion Option, the Borrower's loan may not be assumed by any other person. If the Borrower sells or transfers all or part of the Property after exercising the Conversion Option, then the Lender may, at any time, require the Borrower to pay immediately and in full all amounts owing under the Note and the Security Instrument. If the Borrower's loan is otherwise assumable, a person who assumes the loan secured by the Security Instrument prior to the exercise of the Conversion Option also assumes the Conversion Option on the terms and conditions set forth in this Rider and Modification.

THIS SPACE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS.

0024362576

IN WITNESS WHEREOF, the undersigned has executed this Rider and Modification on the ____________ day of ______________________________.

(PLEASE SIGN YOUR NAME EXACTLY AS IT APPEARS BELOW)

BORROWER(S):

______________________________ (Seal)
EQUAAN DIA SMITH

______________________________ (Seal)

MAILING ADDRESS: 6646 SARONI DRIVE
OAKLAND, CA 94611

ATTACH INDIVIDUAL NOTARY ACKNOWLEDGEMENT

EXHIBIT H

Recording requested by:
LSI Title Company

When Recorded Mail To:
BARRETT DAFFIN FRAPPIER TREDER & WEISS, LLP
4004 Belt Line Road, Suite 100
Addison, Texas 75001-4320

APN #: **048E-7346-025**
Property Address:
6646 SARONI DRIVE
OAKLAND, CALIFORNIA 94611

DFF20090015003366

2016320435 12/08/2016 10:12 AM
OFFICIAL RECORDS OF ALAMEDA COUNTY
STEVE MANNING
RECORDING FEE: 34.00

4 PGS

Space above this line for Recorder's use only

Trustee Sale No. : **20090015003366** Title Order No.: **090831374**

IMPORTANT NOTICE
NOTICE OF DEFAULT AND ELECTION TO SELL UNDER DEED OF TRUST

ATTENTION RECORDER: THE FOLLOWING REFERENCE TO AN ATTACHED SUMMARY APPLIES ONLY TO COPIES PROVIDED TO THE TRUSTOR, NOT TO THIS RECORDED ORIGINAL NOTICE.

NOTE: THERE IS A SUMMARY OF THE INFORMATION IN THIS DOCUMENT ATTACHED
注：本文件包含一个信息摘要
참고사항: 본 첨부 문서에 정보 요약서가 있습니다
NOTA: SE ADJUNTA UN RESUMEN DE LA INFORMACIÓN DE ESTE DOCUMENTO
TALA: MAYROONG BUOD NG IMPORMASYON SA DOKUMENTONG ITO NA NAKALAKIP
LƯU Ý: KÈM THEO ĐÂY LÀ BẢN TRÌNH BÀY TÓM LƯỢC VỀ THÔNG TIN TRONG TÀI LIỆU NÀY

IF YOUR PROPERTY IS IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR PAYMENTS IT MAY BE SOLD WITHOUT ANY COURT ACTION, and you may have the legal right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within the time permitted by law for reinstatement of your account, which is normally five business days prior to the date set for the sale of your property. No sale date may be set until approximately 90 days from the date this Notice of Default may be recorded (which date of recordation appears on this notice).

This amount is $455,218.50 as of 12/06/2016 and will increase until your account becomes current. While your property is in foreclosure, you still must pay other obligations (such as insurance and taxes) required by your note and deed of trust or mortgage. If you fail to make future payments on the loan, pay taxes on the property, provide insurance on the property, or pay other obligations as required in the note and deed of trust or mortgage, the beneficiary or mortgagee may insist that you do so in order to reinstate your

See attached Declaration

IMPORTANT NOTICE
NOTICE OF DEFAULT AND ELECTION TO SELL UNDER DEED OF TRUST
Trustee Sale No. : 20090015003366 Title Order No.: 090831374

account in good standing. In addition, the beneficiary or mortgagee may require as a condition of reinstatement that you provide reliable written evidence that you paid all senior liens, property taxes, and hazard insurance premiums.

Upon your written request, the beneficiary or mortgagee will give you a written itemization of the entire amount you must pay. You may not have to pay the entire unpaid portion of your account, even though full payment was demanded, but you must pay all amounts in default at the time payment is made. However, you and your beneficiary or mortgagee may mutually agree in writing prior to the time the notice of sale is posted (which may not be earlier than three months after this notice of default is recorded) to, among other things. (1) provide additional time in which to cure the default by transfer of the property or otherwise; or (2) establish a schedule of payments in order to cure your default; or both (1) and (2).

Following the expiration of the time period referred to in the first paragraph of this notice, unless the obligation being foreclosed upon or a separate written agreement between you and your creditor permits a longer period, you have only the legal right to stop the sale of your property by paying the entire amount demanded by your creditor.

To find out the amount you must pay, or to arrange for payment to stop the foreclosure, or if your property is in foreclosure for any other reason, contact:

WELLS FARGO HOME MORTGAGE, A DIVISION OF WELLS FARGO BANK, N.A.
c/o BARRETT DAFFIN FRAPPIER TREDER & WEISS, LLP
4004 Belt Line Road, Suite 100
Addison, Texas 75001-4320
(866) 795-1852

If you have any questions, you should contact a lawyer or the governmental agency which may have insured your loan.
Notwithstanding the fact that your property is in foreclosure, you may offer your property for sale provided the sale is concluded prior to the conclusion of the foreclosure.

REMEMBER, YOU MAY LOSE LEGAL RIGHTS IF YOU DO NOT TAKE PROMPT ACTION.

IMPORTANT NOTICE
NOTICE OF DEFAULT AND ELECTION TO SELL UNDER DEED OF TRUST

Trustee Sale No. : **20090015003366** Title Order No.: **090831374**

NOTICE IS HEREBY GIVEN THAT: BARRETT DAFFIN FRAPPIER TREDER & WEISS, LLP is the original Trustee, duly appointed Substituted Trustee, or acting as Agent for the Trustee or Beneficiary under a Deed of Trust dated 05/19/2004, executed by EQUAAN DIA SMITH, AN UNMARRIED WOMAN, as Trustor, to secure obligations in favor of WORLD SAVINGS BANK, FSB, ITS SUCCESSORS AND/OR ASSIGNEES, as Beneficiary Recorded on 06/07/2004 as Instrument No. 2004251442 of official records in the Office of the Recorder of ALAMEDA County, California, as more fully described on said Deed of Trust. Including a Note(s)/ Unconditional Guaranty which had a principal amount of $629,600.00 that the beneficial interest under said Deed of Trust and the obligations secured thereby are presently held by the Beneficiary; that a breach of, and default in, the obligations for which said Deed of Trust is security has occurred in that the payment has not been made of:

THE INSTALLMENT OF PRINCIPAL AND INTEREST WHICH BECAME DUE ON 04/15/2009 AND ALL SUBSEQUENT INSTALLMENTS, TOGETHER WITH LATE CHARGES AS SET FORTH IN SAID NOTE AND DEED OF TRUST, ADVANCES, ASSESSMENTS, FEES, AND/OR TRUSTEE FEES, IF ANY.

NOTHING IN THIS NOTICE SHALL BE CONSTRUED AS A WAIVER OF ANY FEES OWING TO THE BENEFICIARY UNDER THE DEED OF TRUST, PURSUANT TO THE TERMS OF THE LOAN DOCUMENTS.

That by reason thereof, the present beneficiary under said Deed of Trust and/or its loan servicer hereby declare(s) all obligations secured thereby immediately due and payable, invoke(s) the power of sale under said Deed of Trust, and elect(s) to sell the property described therein in satisfaction of those obligations without prejudice to any other default remedies permitted by applicable law.

DATED: 12/06/2016

BARRETT DAFFIN FRAPPIER TREDER & WEISS, LLP as Trustee for Beneficiary

By:______________________________________
Craig Zinda, Associate Attorney

DECLARATION OF COMPLIANCE

(California Civil Code Section 2923.55(c))

Borrower(s):

EQUAAN DIA SMITH

Property Address:

6646 SARONI DRIVE
OAKLAND CA 94611

The undersigned, as an authorized agent or employee of the mortgage servicer named below, declares that:

1. ☐ The mortgage servicer has contacted the borrower pursuant to California Civil Code §2923.55(b)(2) to "assess the borrower's financial situation and explore options for the borrower to avoid foreclosure". Thirty (30) days, or more, have passed since the initial contact was made.

2. ☒ The mortgage servicer has exercised due diligence to contact the borrower pursuant to California Civil Code §2923.55(f) to "assess the borrower's financial situation and explore options for the borrower to avoid foreclosure". Thirty (30) days, or more, have passed since these due diligence efforts were satisfied.

3. ☐ No contact was required by the mortgage servicer because the individual(s) identified above did not meet the definition of "borrower" pursuant to subdivision (c) of California Civil Code §2920.5.

4. ☐ The requirements of California Civil Code §2923.55 do not apply because the loan is not secured by a first lien mortgage or deed of trust on "owner-occupied" residential real property as defined by California Civil Code §2924.15(a).

I certify that this declaration is accurate, complete and supported by competent and reliable evidence which the mortgage servicer has reviewed to substantiate the borrower's default and the right to foreclose, including the borrower's loan status and loan information.

Wells Fargo Bank, N.A.

By: [signature]
Name: Laura Rodriguez
Title: VP Loan Documentation
Date: 3/30/2016

053_CA_V3

EXHIBIT I

Recording requested by:
LSI Title Company

When Recorded Mail To:
BARRETT DAFFIN FRAPPIER TREDER & WEISS, LLP
4004 Belt Line Road, Suite 100
Addison, Texas 75001-4320
(866) 795-1852

APN #: **048E-7346-025**
Property Address:
6646 SARONI DRIVE
OAKLAND, CALIFORNIA 94611

NOTS20090015003366

2017069995 03/27/2017 10:19 AM
OFFICIAL RECORDS OF ALAMEDA COUNTY
STEVE MANNING
RECORDING FEE: 28.00

2 PGS

Space above this line for Recorder's use only

Trustee Sale No. : **20090015003366** Title Order No.: **090831374** FHA/VA/PMI No.:

NOTICE OF TRUSTEE'S SALE

ATTENTION RECORDER: THE FOLLOWING REFERENCE TO AN ATTACHED SUMMARY APPLIES ONLY TO COPIES PROVIDED TO THE TRUSTOR, NOT TO THIS RECORDED ORIGINAL NOTICE.

NOTE: THERE IS A SUMMARY OF THE INFORMATION IN THIS DOCUMENT ATTACHED
注：本文件包含一个信息摘要
참고사항: 본 첨부 문서에 정보 요약서가 있습니다
NOTA: SE ADJUNTA UN RESUMEN DE LA INFORMACIÓN DE ESTE DOCUMENTO
TALA: MAYROONG BUOD NG IMPORMASYON SA DOKUMENTONG ITO NA NAKALAKIP
LƯU Ý: KÈM THEO ĐÂY LÀ BẢN TRÌNH BÀY TÓM LƯỢC VỀ THÔNG TIN TRONG TÀI LIỆU NÀY

YOU ARE IN DEFAULT UNDER A DEED OF TRUST, DATED 05/19/2004. UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT MAY BE SOLD AT A PUBLIC SALE. IF YOU NEED AN EXPLANATION OF THE NATURE OF THE PROCEEDING AGAINST YOU, YOU SHOULD CONTACT A LAWYER.

BARRETT DAFFIN FRAPPIER TREDER & WEISS, LLP, as duly appointed Trustee under and pursuant to Deed of Trust **Recorded on 06/07/2004 as Instrument No. 2004251442** of official records in the office of the County Recorder of **ALAMEDA** County, State of CALIFORNIA.
EXECUTED BY: EQUAAN DIA SMITH, AN UNMARRIED WOMAN,
WILL SELL AT PUBLIC AUCTION TO HIGHEST BIDDER FOR CASH, CASHIER'S CHECK/CASH EQUIVALENT or other form of payment authorized by California Civil Code 2924h(b), (payable at time of sale in lawful money of the United States).
DATE OF SALE: 04/27/2017 TIME OF SALE: 12:30 PM
PLACE OF SALE: AT THE FALLON STREET ENTRANCE TO THE COUNTY COURTHOUSE, 1225 FALLON STREET, OAKLAND, CA 94612.
STREET ADDRESS and other common designation, if any, of the real property described above is purported to be:
6646 SARONI DRIVE, OAKLAND, CALIFORNIA 94611
APN#: 048E-7346-025

The undersigned Trustee disclaims any liability for any incorrectness of the street address and other common designation, if any, shown herein. Said sale will be made, but without covenant or warranty, expressed or implied, regarding title, possession, or encumbrances, to pay the remaining principal sum of the note(s) secured by said Deed of Trust, with interest thereon, as provided in said note(s), advances, under the terms of said Deed of Trust, fees, charges and expenses of the Trustee and of the trusts created by said Deed of Trust. The total amount of the unpaid balance of the obligation secured by the property to be sold and reasonable estimated costs, expenses and advances at the time of the initial publication of the Notice of Sale is **$1,038,074.16**. The beneficiary under said Deed of Trust heretofore executed and delivered to the undersigned a written Declaration of Default and Demand for Sale, and a written Notice of Default and Election to Sell. The undersigned caused said Notice of Default and Election to Sell to be recorded in the county where the real property is located.

NOTICE TO POTENTIAL BIDDERS: If you are considering bidding on this property lien, you should understand that there are risks involved in bidding at a trustee auction. You will be bidding on a lien, not on the property itself. Placing the highest bid at a trustee auction does not automatically entitle you to free and clear ownership of the property. You should also be aware that the lien being auctioned off may be a junior lien. If you are the highest bidder at the auction, you are or may be responsible for paying off all liens senior to the lien being auctioned off, before you can receive clear title to the property. You are encouraged to investigate the existence, priority, and size of outstanding liens that may exist on this property by contacting the county recorder's office or a title insurance company, either of which may charge you a fee for this information. If you consult either of these resources, you should be aware that the same lender may hold more than one mortgage or deed of trust on the property.

NOTICE TO PROPERTY OWNER: The sale date shown on this notice of sale may be postponed one or more times by the mortgagee, beneficiary, trustee, or a court, pursuant to Section 2924g of the California Civil Code. The law requires that information about trustee sale postponements be made available to you and to the public, as a courtesy to those not present at the sale. If you wish to learn whether your sale date has been postponed, and, if applicable, the rescheduled time and date for the sale of this property, you may call 714-730-2727 for information regarding the trustee's sale or visit this Internet Web site www.servicelinkASAP.com for information regarding the sale of this property, using the file number assigned to this case 20090015003366. Information about postponements that are very short in duration or that occur close in time to the scheduled sale may not immediately be reflected in the telephone information or on the Internet Web site. The best way to verify postponement information is to attend the scheduled sale.

FOR TRUSTEE SALE INFORMATION PLEASE CALL:
AGENCY SALES & POSTING
714-730-2727
www.servicelinkASAP.com

BARRETT DAFFIN FRAPPIER TREDER & WEISS, LLP IS ACTING AS A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

BARRETT DAFFIN FRAPPIER TREDER & WEISS, LLP as Trustee
20955 Pathfinder Road, Suite 300
Diamond Bar, CA 91765
(866) 795-1852

____________________ Dated: **03/23/2017**
BY: Manuel Loeza

Manuel Loeza
Foreclosure Specialist